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Official Report

Bengal Legislative Council Debates

Second Session, 1940

26th July—19th September, 1940.

BENGAL LEGISLATIVE ASSEMBLY
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BENGAL LEGISLATIVE COUNCIL.

PRESIDENT.

The Hon'ble Mr. SATYENDRA CHANDRA MITRA, M.L.C.

DEPUTY PRESIDENT.

Khan Sahib ABDUL HAMID CHOWDHURY, M.L.C.

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REGISTRAR TO THE COUNCIL.

Mr. T. M. PAUL, B.A.

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1. Mr. KAMINI KUMAR DUTTA.
2. Begum HAMIDA MOMIN.
3. Raja BHUPENDRA NARAYAN SINHA Bahadur.
4. Mr. J. B. ROSS.

GOVERNMENT OF BENGAL.

GOVERNOR OF BENGAL.

His Excellency Sir JOHN ARTHUR HERBERT, G.C.I.E.

MEMBERS OF THE COUNCIL OF MINISTERS.

The Hon'ble Mr. ABUL KASEM FAZLUL HUQ, in charge of the Education Department.

The Hon'ble Khwaja Sir NAZIMUDDIN, K.C.I.E., in charge of the Home Department.

The Hon'ble Sir BIJOY PRASAD SINGH ROY, in charge of the Revenue Department.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca, in charge of the Departments of Public Health (including Medical) and Local Self-Government.

The Hon'ble Maharaja SRIS CHANDRA NANDY, of Cossimbazar, in charge of the Department of Communications and Works.

The Hon'ble Mr. HUSEYN SHAHEED SUHRAWARDY, in charge of the Departments of Finance, Commerce and Labour.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur, in charge of the Judicial and Legislative Department.

The Hon'ble Mr. PRASANNA DEB RAIKUT, in charge of the Forest and Excise Departments.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK, in charge of the Co-operative Credit and Rural Indebtedness Department.

The Hon'ble Mr. TAMIZUDDIN KHAN, in charge of the Departments of Agriculture, Industries (including Veterinary) and Rural Reconstruction.

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BENGAL LEGISLATIVE COUNCIL

ALPHABETICAL LIST OF MEMBERS.

A

1. Ahmad, Khan Bahadur Naziruddin. [Burdwan Division Muhammadan (Rural).]
2. Ahmed, Mr. Nur. [Chittagong Muhammadan (Rural).]
3. Ahmed, Mr. Mesbahuddin. [Bengal Legislative Assembly.]
4. Ali, Mr. Altaf. [Bengal Legislative Assembly.]
5. Aziz, Khan Sahib Abdul. [Presidency Division South Muhammadan (Rural).]

B

6. Baksh, Mr. Kader. [Bengal Legislative Assembly.]
7. Banerjee, Rai Bahadur Keshab Chandra. [Dacca Division North General (Rural).]
8. Barua, Mr. Dhirendra Lal. [Chosen by the Governor.]
9. Bose, Rai Bahadur Manmatha Nath. [Burdwan Division South-West General (Rural).]

C

10. Chakraverti, Mr. Shrish Chandra. [Calcutta General (Urban).]
11. Chaudhury, Mr. Moazzemali *alias* Lal Mia. [Faridpur Muhammadan (Rural).]
12. Chowdhury, Khan Sahib Abdul Hamid. [Mymensingh West Muhammadan (Rural).]
13. Chowdhury, Mr. Khorshed Alam. [Bakarganj Muhammadan (Rural).]
14. Chowdhury, Khan Bahadur Rezzaqul Haider. [Noakhali Muhammadan (Rural).]
15. Chowdhury, Mr. Hamidul Huq. [Bengal Legislative Assembly.]
16. Chowdhury, Mr. Humayun Reza. [Raishahi *cum*. Malda Muhammadan (Rural).]
17. Cohen, Mr. D. J. [Chosen by the Governor.]

D

18. Das, Mr. Lalit Chandra. [Chittagong Division General (Rural).]
19. Datta, Mr. Bankim Chandra. [Bengal Legislative Assembly.]
20. Datta, Mr. Narendra Chandra. [Bengal Legislative Assembly.]
21. D'Rozario, Mrs. K. [Chosen by Governor.]
22. Dutta, Mr. Kamini Kumar. [Bengal Legislative Assembly.]

E

23. Esmail, Khan Bahadur Alhadj Khwaja Muhammad. [Dacca North-West Muhammadan (Rural).]

F

24. Ferguson, Mr. R. W. N. [Bengal Legislative Assembly.]

G

25. Goswami, Mr. Kanai Lal. [Calcutta Suburbs General (Urban).]

H

26. Hosain, Khan Bahadur Saiyed Muazzamuddin. [Bengal Legislative Assembly.]
27. Hossain, Mr. Latafat. [Chosen by the Governor.]
28. Hossain, Mr. Mohamed. [Bengal Legislative Assembly.]
29. Huq, Khan Bahadur Syed Muhammad Ghaziul. [Tippera Muhammadan (Rural).]

J

30. Jan, Alhadj Khan Bahadur Shaikh Muhammad. [Calcutta and Suburbs Muhammadan (Urban).]

K

31. Kabir, Mr. Humayun. [Bengal Legislative Assembly.]
32. Karim, Khan Bahadur M. Abdul. [Mymensingh East Muhammadan (Rural).]
33. Khan, Khan Bahadur Muhammad Asaf. [Rangpur Muhammadan (Rural).]
34. Khan, Maulana Muhammad Akram. [Bengal Legislative Assembly.]

L

35. Laidlaw, Mr. W. B. G. [European.]
36. Lamb, Sir T. [Bengal Legislative Assembly.]

M

37. Maitra, Rai Bahadur Brojendra Mohan. [Rajshahi Division South-West General (Rural).]
38. *Mitra, the Hon'ble Mr. Satyendra Chandra. [Bengal Legislative Assembly.]
39. Molla, Khan Sahib Subidali. [Bengal Legislative Assembly.]
40. Momin, Begum Hamida. [Chosen by the Governor.]
41. Mookerjee, Mr. Naresh Nath. [Bengal Legislative Assembly.]
42. Mookerji, Dr. Radha Kumud. [Bengal Legislative Assembly.]

P

43. Pal Chaudhuri, Mr. Ranajit. [Presidency Division General (Rural).]

Q

44. Quasem, Maulvi Abul. [Bengal Legislative Assembly.]

*President of the Bengal Legislative Council.

R

45. Rahman, Khan Bahadur Ataur. [Presidency Division North Muhammadan (Rural).]
46. Rahman, Khan Bahadur Mukhlesur. [Rajshahi Division North Muhammadan (Rural).]
47. Rashid, Khan Bahadur Kazi Abdur. [Dacca South-East Muhammadan (Rural).]
48. Ray, Mr. Nagendra Narayan. [Bengal Legislative Assembly.]
49. Ray, Rai Sahib Jogendra Nath. [Burdwan Division North-East General (Rural).]
50. Ross, Mr. J. B. [Bengal Legislative Assembly.]
51. Roy, Mr. Amulya Dhone. [Bengal Legislative Assembly.]
52. Roy, Rai Bahadur Radhica Bhusan. [Bengal Legislative Assembly.]
53. Roy Chowdhury, Mr. Krishna Chandra. [Chosen by the Governor.]
54. Roy Chowdhury, Mr. Birendra Kishore. [Bengal Legislative Assembly.]

S

55. Sanyal, Mr. Sachindra Narayan. [Bengal Legislative Assembly.]
56. Sarker, Rai Sahib Indu Bhusan. [Dacca Division South General (Rural).]
57. Scott-Kerr, Mr. W. F. [European.]
58. Sen, Rai Sahib Jatindra Mohan. [Rajshahi Division North-West (Rural).]
59. Shamsuzzoha, Khan Bahadur M. [Bengal Legislative Assembly.]
60. Singh Roy, The Hon'ble Sir Bijoy Prasad. [Bengal Legislative Assembly.]
61. Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur. [Bengal Legislative Assembly.]
62. Stark, Mr. A. F. [European.]

T

63. Talukdar, Dr. Kasiruddin. [Bogra *cum* Pabna Muhammadan (Rural).]

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 26th July, 1940, at 2-15 p.m., being the first day of the Second Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

Oath.

Any member desiring to take his seat will please come to the Table and take oath or make affirmation of allegiance, in the manner prescribed.

Mr. R. W. N. Ferguson then took oath of office as a member of the Bengal Legislative Council.

Mr. PRESIDENT: I am to announce to the Council the names of the members and the dates on which each of them took oath of office as a member of the Bengal Legislative Council since the prorogation of the last Session of the Council:—

(1) Khan Bahadur Muklesur Rahman, 5th April, 1940.

(2) Rai Bahadur Brojendra Mohan Maitra, 6th April, 1940.

(3) Mr. Lalit Chandra Das, 6th April, 1940.

(4) Mr. W. F. Scott-Kerr, 6th April, 1940.

(5) Khan Sahib Abdul Aziz, 6th April, 1940.

(6) Dr. Kasiruddin Talukdar, 6th April, 1940.

(7) Mr. Moazzemali Choudhury (*alias* Lal Mia), 6th April, 1940.

(8) Mr. Nur Ahmed, 6th April, 1940.

(9) The Hon'ble Sir Bijoy Prasad Singh Roy, 6th April, 1940.

(10) Mr. Birendra Kishore Roy Chowdhury, 6th April, 1940.

(11) Sir T. Lamb, 6th April, 1940.

(12) Maulvi Abul Quasem, 6th April, 1940.

(13) Khan Bahadur Saiyed Muazzamuddin Hosain, 6th April, 1940.

(14) Mr. Hamidul Huq Chowdhury, 6th April, 1940.

(15) Mr. Altaf Ali, 6th April, 1940.

(16) Babu Amulyadhone Roy, 6th April, 1940.

(17) Mr. Latafat Hossain, 6th April, 1940.

(18) Khan Bahadur Kazi Abdur Rashid, 19th April, 1940.

(19) Rai Sahib Jogendra Nath Ray, 19th April, 1940.

(20) Mr. Dhirendra Lal Barua, 19th April, 1940.

(21) Mr. Kamini Kumar Dutta, 20th April, 1940.

(22) Mr. A. F. Stark, 15th July, 1940.

War Situation.

Mr. PRESIDENT: Honourable members of the Bengal Legislative Council, we meet at a time when the European War has created a situation almost unparallelled in the history of human civilization. During the last four fateful months, in common with the rest of the world we have had the mortification of seeing the old world-order shaken by the ruthless onslaughts of the Totalitarian powers. German militarism has already succeeded in getting the war-front extended beyond the boundaries of Europe. Although India still happens to be outside the range of actual war operations, the war situation in Europe—can no longer be regarded as a matter of mere academic speculation for us: it is rather one of immediate and grave concern.

This swift but unwelcome development in the International situation has served to bring home to all sections of the people in India the extreme urgency of maximum efforts being made for resisting the Nazi menace. His Excellency the Viceroy has been unremitting in his endeavours to bring together all sections of the people on a common platform in order that a gigantic push might be given in the direction of successful prosecution of the war against Nazism. Let us hope that with sweet reasonableness and sincere good-will animating the deliberations of the persons concerned in these momentous negotiations, a satisfactory solution will be evolved before long and India will be able to make the maximum contribution in men and materials for helping Britain in this most critical juncture in her history.

Obituary References.

But even in the midst of such terribly unsettled conditions all around us, we may not omit to perform the melancholy duty of paying our tribute of respect and admiration to the memory of those illustrious countrymen of ours whom death has snatched away since we met last.

REV. C. F. ANDREWS.

The name of Rev. C. F. Andrews comes uppermost to our mind in this connection. After serving the poor and the down-trodden Indians at home and abroad ceaselessly and unselfishly for 36 years in the face of almost insurmountable difficulties of race, religion, habits and clime,

Rev. Andrews breathed his last in a Calcutta Nursing Home on the 5th April, 1940. Quite early in his life he had resolved to dedicate himself to the service of his fellow-men—the needy and the poor, the lowly and the lost—and chose India as the field of his labours. Since then, he made India his second home and steadfastly worked for mitigation of the sufferings of the oppressed and helpless Indians, scattered over almost all parts of the globe, with a singleness of purpose which could hardly be equalled. It is such unremitting and selfless service in the interest of the millions to whom he was a foreigner by birth that led Dr. Rabindra Nath Tagore to observe:

"In no one man have I seen such triumph of Christianity."

Rev. Andrews was a very intimate collaborator of Mahatma Gandhi and Dr. Tagore, two of the greatest personalities of modern India. When Mahatma Gandhi was conducting the historic Passive Resistance Movement in South Africa with a view to vindicate the rights of the Indian settlers there, Rev. Andrews was with him rendering valuable help in all possible manner although such pro-Indian activities on his part made him the victim of physical violence at the hands of his own countrymen. Later, he made "Santiniketan" his headquarters and rendered incalculable help to Dr. Tagore in developing the Viswabharati into a world-famous centre of International culture. Till the last day of his life, he was associated with the Viswabharati in the capacity of the Vice-President of its Executive Council.

Rev. Andrews was engaged every moment of his life in quietly doing some ameliorative work or other for the suffering millions in different parts of India. Whenever there was an outbreak of flood or famine, epidemic or earthquake in any part of India rendering thousands of people helpless or shelterless, Rev. Andrews was invariably to be found organising relief and succour for the sufferers like a ministering angel. I personally saw him on one occasion carrying in his own arms a patient suffering from an attack of cholera which broke out in an epidemic form among the Assam tea-garden coolies, thousands of whom had become stranded at the Chandpur railway station as the sequel to a strike. The people of India in whose service he had literally spent himself affectionately bestowed on him the title of "Dinabandhu" or Friend of the Poor. A more appropriate title could hardly be thought of, for his life was really one long chapter of suffering and service in the cause of the oppressed humanity. India can never forget Rev. Andrews nor his magnificent services for her people!

Maulvi Mujibur Rahaman.

Maulvi Mujibur Rahaman, Editor of "The Mussalman," expired on the 26th of April last at his Calcutta residence after a protracted illness.

Quiet and unassuming in his bearing, Maulvi Mujibur Rahaman was the very embodiment of dignity and purity. If there is any truth in the adage, "Manners maketh a man," then the Maulvi Sahib was undoubtedly a prince among men. Indeed, from my own experience of men and things in all walks of life so far, I can unhesitatingly say that a more moral man, in the strictest sense of the term, it has not been my privilege to come across. The most distinguishing trait of his character lay in his disdain for most of the prizes, as well as the pleasures and comforts of life. He was absolutely indifferent to money, rank, or even power and fame. Poverty had no terror for him. Far from demoralising him in any way, it rather served to bring out the sterling qualities of his head and heart in their true effulgence.

In the sphere of politics, he was a trusted friend and lieutenant of the late Mr. Abdur Rasool. He shared Mr. Rasool's abiding faith in the basic principles of nationalism to which he adhered till the last day of his life, without allowing his mind to be deflected by any consideration of ulterior advantage or material gain. I had the privilege of enjoying his personal friendship for a number of years and as such had sufficient opportunities of watching him from close quarters both in his public and private life. The impression left on my mind about him is of a man moving independently of the ordinary currents of human action,—a man solitary and austere, to whom existence was no more than a duty, yet a duty to be discharged along the strictest path of rectitude.

Bengal is undoubtedly the poorer to-day by the death of a man of such strerling worth!

MR. MAHIM CHANDRA DAS.

We have also to mourn the death of Mr. Mahim Chandra Das, the eminent leader of Chittagong, which melancholy incident took place in Calcutta on the 3rd of April last. He had a long and meritorious record of service and suffering in the cause of the country. During the days of the Non-co-operation Movement and the period which followed thereafter, I had worked with him in furtherance of the Congress programme. He was a staunch nationalist and did not flinch from any sacrifice that was demanded of him. His untimely death is a distinct loss to the province as a whole and to the people of Chittagong in particular.

I would request the honourable members to rise in their places as a mark of respect to the memory of the deceased.

(All members rose in their seats.)

It would be my duty to convey to the members of the bereaved families concerned the sense of loss which the country has sustained by the death of these illustrious men.

QUESTIONS AND ANSWERS

Outstanding Questions from last Session and Answers thereto.

Requisition of the services of Sergeants etc., for the purposes of processions and parties.

95. Mr. RANAJIT PAL CHOWDHURI: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if there is a rule to the effect that on payment of a certain fee, the services of Sergeants and constables may be requisitioned for processions or parties?

(*b*) If the answer be in the affirmative, will the Hon'ble Minister be pleased to state whether Ministers pay the said fees when they requisition the services of such Sergeants or constables for their parties? If not, will the same relaxation be extended to other members of the public?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) Yes.

(*b*) Government have no information that any such requisition has ever been made.

Mr. RANAJIT PAL CHOWDHURI: Will the Hon'ble Minister be pleased to state whether these Sergeants attend these social parties without being invited?

The Hon'ble Khwaja Sir NAZIMUDDIN: Which social parties?

Mr. RANAJIT PAL CHOWDHURY: The social parties mentioned in (*b*),—I mean the Minister's parties in their houses.

(No answer.)

Mr. NARESH NATH MOOKERJEE: Sir, my question arises out of answer (*b*). I have noticed that whenever high Government officials or the Hon'ble Ministers are entertaining in their houses on any large scale, a fairly large posse of police constables headed by Sergeants is always on duty. I suppose Mr. Pal Chowdhuri referred to that. Do I take it that they are posted in the interests of better traffic or are they requisitioned specially for that day to protect the houses of high officials or dignitaries?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I do not know which incident the hon'ble members are referring to but as I have stated, there is no information that any requisition has been made by any Minister. When Ministers entertain His Excellency the Governor, naturally the police comes without any requisition from any Minister.

Increase in prices of all necessary commodities.

96. Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state—

(*a*) the amount of increase in the prices of foodstuffs and other edible commodities including medicine and other goods, e.g., petrol etc., fit for human use and consumption, which has taken place from the date of declaration of war and up to date by means of tabular statement;

(*b*) in case of such increment, what steps Government have taken to control the same;

(*c*) whether in spite of taking such steps, prices are increasing gradually; and

(*d*) what further steps Government propose to take for the purpose of effectively stopping said unwarranted increase of prices?

MINISTER in charge of the COMMERCE and LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) As there have been frequent fluctuations in the prices, it is difficult to prepare a tabular statement except for a particular date and a specified item. I would, however, refer the honourable member to the statement embodied in the Press communiqué of the 11th March, 1940, a copy of which is laid in the Library and it is presumed that will serve his purpose.

(*b*) Government have fixed the maximum price of all the necessary commodities and they are satisfied that all the fluctuations that had so far taken place were within the fixed limit.

(*c*) and (*d*) Do not arise.

Mr. NARESH NATH MOOKERJEE: Sir, my question is directed purely for eliciting information with regard to the price of medicines. Sir, it has been brought to my notice by several very important people that medicines of a particular kind are very difficult to obtain, and that even when it is found that fairly large stocks are held by certain chemists, they refuse to sell them. May I know from Government whether this fact has been brought to their notice? If so, what steps Government propose to take in this matter?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, if the Hon'ble Member had specified the medicine that he is referring to, I might have made enquiries. But this question like the previous one is of a general nature, viz., that a particular medicine is running short, and it is very difficult for me to reply. As a matter of fact, the stock of medicines at the present moment is so considerable that the prices have fallen.

Mr. NARESH NATH MOOKERJEE: Is the Hon'ble Minister referring to indigenous drugs or is he referring to imported medicine?

The Hon'ble Mr. H. S. SUHRAWARDY: Imported medicine.

Introduction of Non-Agricultural Tenancy Bill.

97. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: (*a*) Will the Hon'ble Minister in charge of the Judicial Department be pleased to state whether the Government propose to introduce a Non-Agricultural Tenancy Bill in the near future?

(*b*) Is he aware that a memorial signed by the landholders of the districts of Bengal and others have been submitted to His Excellency the Governor of Bengal? If so, does the Government propose to stop further proceedings with the proposed legislation till a decision is made on the said memorial? If not, why not?

(*c*) Will the Hon'ble Minister be pleased to state whether public opinion was obtained by executive action on the proposed legislation before the Government decided to adopt such a course? If so, will he be pleased to place a copy of those opinions on the Table of the House? If not, why not?

(*d*) If no opinion has been obtained by executive action, will the Hon'ble Minister be pleased to place on the Table of the House the basis and the data on which the Government decided to introduce such a legislation? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Musharruf Hossain, Khan Bahadur, Minister in charge of the Judicial Department): (*a*) Yes, legislation about non-agricultural tenancies is contemplated.

(*b*) Three such memorials have been submitted to His Excellency. In deciding the lines of the proposed legislation regarding non-agricultural tenancies, Government will take into consideration the material contained in these memorials.

(*c*) No opinion has been obtained. Government are awaiting the recommendations of the non-agricultural tenancy committee and may ascertain public opinion on them, if necessary.

(*d*) The large number of ejectment suits and notices for ejectment instituted and issued by landlords against tenants of non-agricultural tenancies constituted the basis of the proposal to undertake legislation in the matter.

Replies to Questions of the Current Session.

Corruption in Government Offices.

1. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to state if any steps have been taken by the present popular Ministry, since its assumption of office, to check corruption prevailing in Government offices, courts and among Government servants?

(*b*) If so, what are they?

(*c*) If not, why have no steps been adopted in this direction?

(*d*) Do the Government propose to adopt any measures to check corruption? If not, why not?

(*e*) Is it a fact that some of the Provincial Governments have already modified the Government Servants' Conduct Rules prohibiting acceptance of *dalis* in any shape, forbidding Government officers from accepting entertainments and parties except on the eve of retirement from service, prohibiting use of borrowed cars and other conveyances and emphasising payment for supplies of provisions by Government servants personally? If so, do the Government propose to modify the Government Servants' Conduct Rules similarly or in any other way? If not, why not?

(*f*) Is it a fact that a considerable sum of money is spent in entertainments and parties given in honour of Government officers by the people of Bengal? If so, do the Government propose to take any measure to prevent this unnecessary expenditure? If not, why not?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) to (*d*) I do not think corruption can be eradicated by any executive action. The main requisites are a strong public opinion and a high sense of public morality among the officers of Government.

(*e*) Government have no information.

(*f*) Government have no reason to believe that considerable sums are spent on such entertainments.

Khan Bahadur ATAUR RAHMAN: Arising out of answers (*a*) to (*d*), may I know if that is the reason why no action should be taken and no enquiry should be made by Government as to whether there is existence of such corruption?

The Hon'ble Mr. H. S. SUHRAWARDY: No, Sir; on the other hand, if any instance is brought to the notice of Government, an immediate enquiry is made for the purpose of ascertaining the facts of the case, and action has been taken in such circumstances.

Khan Bahadur ATAUR RAHMAN: Are not Government aware that there is corruption in the Civil Courts, particularly in the lowest courts?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, information of this type has been conveyed to Government from time to time, and action has been taken whenever specific instances are brought to the notice of Government. If the honourable member is so fully aware of the condition of affairs as well as the parties who are corrupt, I shall be very glad indeed to have specific instances. The honourable member may then challenge me if we do not take any action in the matter.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Has the Government done anything to rouse public opinion and to create a higher sense of public morality in the Government offices?

The Hon'ble Mr. H. S. SUHRAWARDY: Some departments have issued circulars and some departments have not. I have no doubt that various speeches have been made by Hon'ble Ministers from time to time. If I may recall the speeches made by the Hon'ble Home Minister to the Police Force, they have brought this matter very forcibly to the notice of the public and of Government officials. I have no doubt also, Sir, that the presence of the honourable members in this House has also had a very salutary effect upon Government officers.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not a fact that if an enquiry is set on foot, it will put on guard many people who practise this sort of malpractices?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, as I stated, I do not think it proper to go in for a general and roving enquiry. If honourable members would bring specific instances, we would be glad to look into them, and as I have stated above, the honourable member may issue a challenge if we do not take any steps.

Mr. RANAJIT PAL CHOWDHURY: Will the Hon'ble Minister be pleased to give us some examples of any notable steps that have been taken recently?

The Hon'ble Mr. H. S. SUHRAWARDY: There have been complaints, there have been enquiries, there have been dismissals. Where we have found complaints not proved, we have not taken any action. This is how we proceeded. I may point out that there are two instances which come to my mind; one is in reference to the Irrigation Department and the other in regard to the Medical Department, in connection with which enquires are still going on.

Khan Bahadur ATAUR RAHMAN: Is the Hon'ble Minister aware of the fact that the Ministry in Bihar established a suitable machinery to eradicate corruption and that the result has been so far very satisfactory?

Mr. PRESIDENT: Order, order, that is not the concern of this Government.

Khan Bahadur NAZIRUDDIN AHMAD: The question raises no question of individual corruption, but of general corruption. Is the Hon'ble Minister aware that corruption is very common with these offices?

The Hon'ble Mr. H. S. SUHRAWARDY: No, Sir.

Rai Sahib INDU BHUSAN SARKER: Is the Hon'ble Minister aware that specially in the Sub-Registrar's offices this sort of corruption is going on, and although I raised two questions, still no steps have been taken for remedying it? Will the Hon'ble Minister enquire about corruption specially in Sub-Registrars' offices?

Mr. PRESIDENT: Order, order. This supplementary question does not arise in this connection.

Khaksar movement in Bengal.

2. **Mr. BIRENDRA KISHORE ROY CHOWDHURY:** Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) if the Government have any definite knowledge as to the rapid growth of the Khaksar organisation in Bengal;

(*b*) if it is a fact that Khaksar recruits are being drilled under cover of night in some of the parks of Calcutta; and

(*c*) if the Government are contemplating any steps to crush this movement in Calcutta and in the districts of Bengal?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No.

(*b*) Yes.

(*c*) The whole question of the treatment of volunteer organisations is under examination.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state who is at the head of the Khaksar movement in Bengal?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Mr. RANAJIT PAL CHOWDHURI: Who is this Dr. Ismail Nami who professes to be the leader of the Khaksar movement in Bengal?

The Hon'ble Khwaja Sir NAZIMUDDIN: May I submit, Sir, that this question does not arise?

Mr. NARESH NATH MOOKERJEE: I am afraid, Sir, that (*c*) does not answer the question. I would like to know whether the Government propose to stamp out all voluntary organisations. Judging from their reply, it seems that they are going into the question of stopping all voluntary organisations in the province.

The Hon'ble Khwaja Sir NAZIMUDDIN: Nothing will satisfy them, because somehow or other it is supposed to be a Moslem organisation, whereas actually it is absolutely non-communal like the Congress.

Rai Sahib JATINDRA MOHAN SEN: May I ask who these Khaksars are, what is their policy, and what are they bent upon?

The Hon'ble Khwaja Sir NAZIMUDDIN: I submit that it does not arise out of the question.

Mr. LALIT CHANDRA DAS: Arising out of (*a*), I am testing the definiteness of the knowledge of the Government with respect to the Khaksar organisation. Will the Hon'ble Minister be pleased to tell us whether a certain barrister-at-law is the leader of the Khaksar movement in Bengal?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, again I wish to point out that the question is: if the Government have any definite knowledge as to the rapid growth of the Khaksar organisation in Bengal, and my answer is "no". The question is based upon the rapid growth of the Khaksar organisation, and I submit that these

supplementary questions do not arise. There are other questions on Khaksars which will be coming up later on. They are more specific, and if the hon'ble members ask supplementaries on them, I will give suitable replies.

Rai Bahadur KESHAB CHANDRA BANERJEE: Will the Hon'ble Minister be pleased to state what is the derivation of the word "Khaksar"?

The Hon'ble Khwaja Sir NAZIMUDDIN: Consult the Urdu dictionary.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether the Khaksar movement in Bengal is connected with the Khaksar movement in the Punjab?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I submit again that this does not arise out of this question. I have stated to the honourable members that there are other questions which will be coming up where they will have the opportunity of asking all these supplementaries legitimately.

Mr. NARESH NATH MOOKERJEE: Sir, this movement originated in the Punjab, and it is a banned organisation there to-day. Do the Government of Bengal consider that the existence of these Khaksars in such large numbers in this province is a danger and a menace to the province?

Mr. PRESIDENT: Do you like to reply to this, Sir Nazimuddin?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, Sir.

Mr. LALIT CHANDRA DAS: Arising out of (*b*), will the Hon'ble Minister be pleased to state whether any step has been taken to stop drilling at night by the Khaksars?

The Hon'ble Khwaja Sir NAZIMUDDIN: Drilling by other voluntary organisations is not stopped, and as Government make no difference between other organisations and this, no steps have been taken.

Mr. LALIT CHANDRA DAS: Is it a fact that the Khaksars have pledged their services to the Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, they have offered Government full co-operation in their war affairs.

Mr. LALIT CHANDRA DAS: Is it for this that their drilling at night is not stopped?

Mr. PRESIDENT: Order, order.

Rai Bahadur KESHAB CHANDRA BANERJEE: Will the Hon'ble Minister be pleased to state if he is aware that the Premier of the Punjab Government, Sir Sikander Hyat Khan, has characterized the Khaksars as the fifth columnists and as being under the influence of Nazi Germany?

Mr. PRESIDENT: Order, order. I disallow this question.

Mr. LALIT CHANDRA DAS: With reference to answer (*c*), will the Hon'ble Minister be pleased to state whether in the event of this organisation offering its services to Government, Government would, instead of checking the movement in Calcutta and the districts of Bengal, allow it to develop?

Mr. PRESIDENT: Order, order; the Hon'ble Minister has already said that the matter is under examination.

Mr. NARESH NATH MOOKERJEE: Is it the policy of Government to permit drills at night, and is this practice tolerated in the case of other organisations as well?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already said that the whole question is under examination, and I have nothing further to add on this subject.

Mr. RANAJIT PAL CHOWDHURI: With regard to the question of drilling at night, may I know what are the other organisations which practise drill at night as vigorously as the Khaksars do?

The Hon'ble Khwaja Sir NAZIMUDDIN: There are other organisations which are drilling and marching along the streets. I have already informed the House that the whole question as to how these volunteer organisations are to be treated is under examination.

Mr. LALIT CHANDRA DAS: With reference to question (*a*), will the Hon'ble Minister be pleased to say if Government have taken any steps up till now to ascertain whether the Khaksar movement is spreading in Bengal?

The Hon'ble Khwaja Sir NAZIMUDDIN: I may inform the honourable members that there are other questions coming before the Council on this subject, and when they come it would be more relevant to answer them.

Mr. PRESIDENT: The Hon'ble Minister promises that there will be another occasion when he will be able to give a more elaborate reply and when the honourable members would also have an opportunity of putting as many supplementary questions as possible.

Report of the Land Revenue Commission.

3. **Mr. RANAJIT PAL CHOWDHURI:** Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) whether the Bengal Ministry has taken into their consideration the report of the Land Revenue Commission;

(*b*) if so, the result of their deliberations over it;

(*c*) the portions of the findings or recommendations that have met with their approval;

(*d*) the recommendation or recommendations which they propose to give effect to forthwith; and

(*e*) whether opportunity will be given to the Legislatures to discuss the report?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy: (*a*) to (*d*) The report is being examined by a Special Officer with a view to bring out the full implications—financial, economic, legal and administrative—involved in the different recommendations of the Commission, so that Government may be in a position to decide which of the recommendations may be accepted and in what manner and to what extent they may be given effect to.

(*e*) Government would welcome a general discussion on the Report but not till Government have had the opportunity of appreciating the implications of at least the main recommendations of the Commission.

Maulvi ABUL QUASEM: Will the Hon'ble Minister be pleased to state how long the Special Officer will take to examine the recommendations of the Commission, what procedure has been adopted by him in dealing with the recommendations and also whether it is likely that he will submit interim reports?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The honourable member has put several questions together which it is difficult to answer. First of all, I think the Special Officer would be able to submit his final report by the end of this year; as regards the procedure, he is taking up different recommendations, item by item, and examining them with reference to their various aspects and submitting his proposals.

Mr. PRESIDENT: Will he submit interim reports? This part of the honourable member's question has been unanswered.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: He has been submitting his recommendations in instalments. These will be examined by Government and then final decisions will be arrived at.

Maulvi ABUL QUASEM: May I enquire of the Hon'ble Minister as to when Government is likely to take their decision on the recommendations of the Special Officer?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is very difficult to give a definite date when Government will be able to come to a final decision, but I can assure the honourable member that Government will expedite the matter as much as possible.

Mr. RANAJIT PAL CHOWDHURI: Will the Hon'ble Minister be pleased to state whether Government are prepared to supply us with a copy of the Special Officer's reports from time to time?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is meant for Government and his report should for the present be treated as confidential.

Mr. RANAJIT PAL CHOWDHURY: Will the Hon'ble Minister supply to the members of the Legislature copies of the Land Revenue Commission's Report?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir. The Government Press has been asked to print copies required for circulation to the members of the Legislature and these are being printed off at present.

Mr. RANAJIT PAL CHOWDHURY: May we expect to be supplied with all the six volumes of the Report including the evidence portion?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to state whether Government propose to obtain the opinion of the prominent landholders' organisations of Bengal on the recommendations of the Commission?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If anybody submits an opinion, it will be very welcome, but I may inform the House that landholders and all other public bodies had an opportunity of submitting their views before the Commission and the Commission made their recommendations after considering the views of the various public bodies.

Khan Bahadur NAZIRUDDIN AHMAD: Will the Hon'ble Minister be pleased to consider the desirability of publishing the evidence and the proceedings portions of the Report?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The proceedings portion cannot be published, but certainly the evidence portion will be published.

Khan Bahadur NAZIRUDDIN AHMAD: In connection with the framing of the Government of India Act, the evidence and proceedings portions including the discussions were printed and had been sold to the public.

Mr. PRESIDENT: I do not think that question arises out of the main question.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to state whether he is aware that the evidence taken in the course of the examination of witnesses has not been properly gone into in submitting the report?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is not the information of the Government.

Sale under the Patni Sale Law.

4. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if the first sale under section 8 of the Patni Sale Law (Regulation VIII of 1819) is to be held on the 1st of Jaista, provided if it not be a holiday?

(*b*) Is it a fact that in the current Bengali year the 1st of Jaista fell on a working day, corresponding to 15th May, 1940?

(*c*) Is it a fact that in some districts the Collectors refused to put tenures to sale on the 1st of Jaista last? If so, will the Hon'ble Minister please state the names of the districts where the sale did not take place on the 1st of Jaista and the reasons therefor?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) Yes.

(*b*) Yes.

(*c*) No; but in some districts the sale of some tenures did not take place on that date for reasons detailed in the statement annexed hereto.

Statement referred to in the reply to Question No. 4, showing districts where sale of some patni tenures did not take place on the 1st of Jaistha, 1347 B.S., and the reasons therefor.

Districts.	Reasons.
Burdwan ..	Notice was not duly published and the rent mentioned in the application and the notice did not tally with that contained in the *patni kabuliyat.*
Birbhum ..	Objections of patnidar were upheld by the Collector in two cases.
24-Parganas ..	Objections of patnidar were upheld by the Collector in two cases.
Murshidabad ..	Result of investigation under section 14 of Regulation VIII of 1819 of failure of the proprietor to produce the *kabuliyat* or other necessary papers. The sale of a few tenures had to be adjourned till the next day as the sale of all the tenures could not be concluded by 5-45 p.m. on the 1st of *Jaistha,* 1347 B.S.
Faridpur ..	A tenure was held by a court of wards estate jointly with some private landlords and the case was struck off under the provision of section 10C(*2*) of the Court of Wards Act, 1879.
Malda ..	In two cases none was present on behalf of the zemindar and in another the applicant zemindar was not the recorded proprietor and the Collector upheld the patnidar's objection.

Mr. RANAJIT PAL CHOWDHURI: Sir, we have not been able to go through the answer beforehand as it did not appear in print but has just now been made on the floor of the House. We have, therefore, been deprived of the right of putting supplementary questions.

Mr. PRESIDENT: But the question has been answered just now and you can put supplementary questions if you like. I may inform the honourable member in this connection that in most Legislatures questions and answers are not supplied in print beforehand.

Construction of the Satkhira-Nabharan Road.

5. **Mr. RANAJIT PAL CHOWDHURY:** Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*a*) the stage of progress in the construction of the Satkhira-Nabharan Road;

(*b*) when the construction of the road in question was started;

(*c*) the reason or reasons why the construction has not yet been completed; and

(*d*) the time by which it is expected to be finished?

MINISTER in charge of COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) The section of the road Nabharan to Ellispur is under construction. On this section of the road consolidation of *jhama* metal has been completed except in the 11th mile. Stone metal is now being consolidated. Sanction to the construction of the remaining section of the road from Ellispur to Satkhira is now under the consideration of the Government of India.

(*b*) Land Acquisition and earthwork on the Nabharan-Ellispur section were begun in the cold weather of 1936-37.

(*c*) There has been some delay owing to the fact that the brick-supplying contractor was behind his schedule owing to a shortage of wagons for the transport of coal.

(*d*) It is expected that the portion now under construction will be completed in 1942-43.

Maulvi ABUL QUASEM: With reference to answer (*a*), will the Hon'ble Minister be pleased to state if it is not a fact that the road as a whole from Nabharan to Satkhira had received the sanction of the Road Board of Bengal and also of the Central Road Board when it had been first taken up?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: No, Sir.

Maulvi ABUL QUASEM: Will the Hon'ble Minister be pleased to state if only the portion from Nabharan to Ellispur was sanctioned; and, if so, what was the amount sanctioned for this purpose?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Yes; speaking from memory, I think Rs. 5,00,000 was the sanctioned amount.

Maulvi ABUL QUASEM: Was it the intention of the Road Board of Bengal that piecemeal sanction to the construction of this road should be given; and were the Government satisfied with this piecemeal sanction?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I may state that when that portion of the road from Nabharan to Ellispur was sanctioned by the old Road Board, the Special Officer's comprehensive report was not ready and so, I believe, the old Board was not in a position to even recommend the other section and only approved that section which I have just mentioned.

Maulvi ABUL QUASEM: Is the Hon'ble Minister aware that the construction of the road from Nabharan to Ellispur would be of no use if the road from Nabharan to Satkhira is not completed at the same time?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Yes, I know that it is a very important feeder road which connects the subdivisional headquarters with the railway station.

Maulvi ABUL QUASEM: Will the Hon'ble Minister be pleased to state whether the Government of Bengal have recommended to the Government of India for the construction of the road from Nabharan to Satkhira on the ground that the road from Nabharan to Ellispur would be of no use until the road from Nabharan to Satkhira was completed?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: We have already recommended to the Government of India for sanctioning the road from Ellispur to Satkhira.

Maulvi ABUL QUASEM: Is the Hon'ble Minister aware that because of the sanction to the whole scheme, as understood by the public of Khulna and particularly by the District Board of Khulna, all the trees on either side of the road have been cut down, as a result of which pedestrians are now suffering a lot of inconvenience and great hardship is also caused to the people by Government not taking up this portion of the road?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I cannot understand what is in the mind of the honourable member in asking this question, but, as I have already stated, work in one section of the road has already commenced, and we have recommended for the sanction of the Government of India to the other section of the road. The other section will be taken up when sanction is received and funds are provided. This Government cannot be held responsible if the Government of India delays in granting the necessary sanction.

Maulvi ABUL QUASEM: Sir, the Hon'ble Minister has referred to a report of the Special Officer which was not in existence on the date when the previous Road Board had recommended the construction of the road from Nabharan to Satkhira. May I enquire if the report of the Special Officer, which was subsequently made, made any change so far as this scheme is concerned?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, speaking from memory again, I do not think that this road has been recommended by the Special Officer.

Maulvi ABUL QUASEM: May I enquire whether this refusal to recommend sanction to this particular road by the Special Officer has anything to do with the delaying of the completion of the project?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, as a matter of fact, I do not admit that there has been any delay since we have taken up the project. Since 1937, we have been spending more than what has been allotted and this year we have provided for about Rs. 50,000 which, it is expected, will be fully spent on the project.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state what is the length of this contemplated road?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: About 28 miles.

Khan Bahadur ATAUR RAHMAN: May I know from the Hon'ble Minister if the road-making goes at this rate, when will we be able to complete the roads of Bengal as recommended by the Special Officer, Mr. King?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I deny that the progress is slow; because last year we spent very nearly Rs. 30 lakhs for the province and in the present year we hope to spend more than that. Considering everything, that is certainly not a slow pace specially if we take into account the number of schemes.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state how many miles have been constructed in the course of the last two years?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I am afraid I will require notice to answer that.

Assent to the Bengal Money-Lenders Bill of 1939.

6. **Mr. RANAJIT PAL CHOWDHURI:** Will the Hon'ble Minister in charge of the Judicial Department be pleased to state—

(*a*) whether the Bengal Money-Lenders Bill of 1939 has received the assent of both the Governor and the Governor-General;

(*b*) if so, whether any change or modification has been made by either of them; and

(*c*) if the answer to part (*a*) is in the negative, when it is likely to receive the necessary assent?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The Bill has been submitted to His Excellency the Governor for his assent.

Mr. RANAJIT PAL CHOWDHURI: Is the Government aware of a news-item that came out about a week ago to the effect that the Bill had received the assent of the Governor?

Mr. PRESIDENT: Order, order. I have seen it myself. I shall announce that the assent has been received.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether as a matter of fact His Excellency the Governor has in the meantime given his assent to the Bill?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I am not aware of it.

Khan Bahadur ATAUR RAHMAN: Does the Hon'ble Minister admit or deny the report as published in the "Amrita Bazar Patrika"?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I can neither admit nor deny.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether there is anything repugnant in some of the provisions of the Money-lenders Bill which will require it to be placed before the Viceroy for his assent?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Here is a letter just received from the Additional Secretary to the Government of Bengal to the Secretary, Bengal Legislative Council. It reads thus:—

"I am directed to forward herewith a copy of a notification....."

Mr. PRESIDENT: Order, order. I shall announce that.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to admit now that His Excellency the Governor has in the meantime given his assent to the Bill?

Mr. PRESIDENT: This is not a supplementary question.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether there is anything repugnant in some of the provisions of the Bill requiring it to be placed before the Viceroy for his assent?

Mr. PRESIDENT: That is a matter of opinion.

Mr. RANAJIT PAL CHOWDHURI: Has the Bill received the assent of the Governor-General?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: That is not for me to reply. I think the Hon'ble President will reply to it.

Free grazing in the reserved and protected forests of Chittagong.

7. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Forest and Excise Department be pleased to state what facilities he has provided for free grazing in the reserved and protected areas of

Chittagong? Has he been pleased to issue any general order directing that no licence would be required for grazing of cattle in the forest areas set apart for the purpose? If not, why not?

(*b*) Is it a fact that most of the reserved and forest areas being contiguous to neighbouring villages, people living in the villages nearabout these forest areas suffer greatly from havoc caused by wild animals from forest areas on their crops?

(*c*) What measures have the Government adopted to deforest some areas from every reserved and protected forest range between the villages and the forest areas in order to give relief to the people living nearabout? If not, why not?

(*d*) Has the attention of the Hon'ble Minister been drawn to the suggestion made by Mr. M. M. Stuart, I.C.S., in paragraph 65 under head "Forest" at page 21 of his "Khasmahal Report, 1938"? If so, will the Hon'ble Minister be pleased to state if he has accepted the suggestion of Mr. Stuart to set apart areas in the foot of the hills for free grazing of animals and for the purpose of a barrier between the villages and the forest proper? If not, why not?

MINISTER in charge of the FOREST and EXCISE DEPARTMENT (the Hon'ble Mr. Prasanna Deb Raikut): (*a*) (*i*) It is not the policy of Government to permit free grazing in the reserved and protected forests of the Chittagong Division, as unlimited and uncontrolled grazing in forest areas is incompatible with the conservation of the forest.

(*ii*) Steps are being taken to examine the protected forests with a view to disafforesting the areas containing little or no forest of commercial value and a number of areas have already been disafforested. A committee is to be set up to advise Government as to the best use to be made of the disafforested areas for the benefit of local people, and the question of utilising these lands as grazing grounds will be considered by this committee.

(*b*) No. It is not a fact that the damage done to crops in villages near reserved and protected forest is excessive. In certain localities damage is done by wild elephants and Government's policy is to keep down the numbers of these animals by *khedda* operations and destruction of those found doing damage. Licences are issued to approved *shikaris* for the shooting of elephants doing damage to crops and professional *shikaris* were entertained last year for the same purpose. The latter scheme will be extended.

(*c*) It is not the policy of Government to disafforest areas from every reserved and protected forest. The proposal would afford no solution.

(*d*) Yes. The matter is still under consideration.

Yield of rice.

8. **Mr. LALIT CHANDRA DAS:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state whether it is a fact that a certain officer has been put on deputation to Japan to study the question of the yield of paddy? If so, what is the name of that officer and what was his job before selection? Has he anything else to study in Japan than paddy?

(*b*) Is it not a fact that of the countries showing best yield in pounds of rice per acre, the Bengal Paddy and Rice Enquiry Committee pointed out that Spain comes first and then Italy, next to which is Egypt, after which comes Japan. If so, will the Hon'ble Minister please state why Japan was selected for the purpose?

(*c*) Did the Bengal Paddy and Rice Enquiry Committee anywhere in its Report recommend any deputation to a foreign country for studying the question of paddy growth and how to grow more paddy?

(*d*) Is it not a fact that in Chapter VIII of Volume I of the Report of the Bengal Paddy and Rice Enquiry Committee and in other parts of it, the Committee pointed out the principal ways in which the quality and quantity of paddy could be increased?

(*e*) Why instead of giving the suggested methods of the Paddy and Rice Committee and the knowledge of the Superintendent a due trial in Bengal, it is thought expedient to incur the expenses of sending a deputationist to Japan?

(*f*) Will the Government cancel the deputation and recall him? If not, why not?

(*g*) What was the total cost of the Bengal Paddy and Rice Committee?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) No officer has yet been deputed to Japan to study the question of the yield of paddy, but I would refer the honourable member to the Resolution adopted by this House at its meeting on the 24th November, 1939, and to my statement regarding the action taken by Government on the Resolution which was made in the House on the 11th March, 1940.

(*b*) The answer to the first part of this question is in the affirmative. With regard to the second part, Japan was selected in pursuance of the Resolution adopted by this House.

(*c*) No.

(*d*) Yes

(*e*) The proposal to depute an expert officer to Japan is in addition to, and not instead of, giving the suggested methods of the Bengal Paddy and Rice Committee a due trial.

(*f*) As no officer has been deputed or sent, this does not arise.

(*g*) The cost of the Bengal Paddy and Rice Enquiry Committee and of the Bengal Jute Committee was joint and no separate account was kept of the former. The total cost of the two Committees amounted to Rs.34,800 including travelling allowance of members and witnesses.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not a fact that the resolution was passed unopposed?

The Hon'ble Mr. TAMIZUDDIN KHAN: I think so, Sir.

Mr. LALIT CHANDRA DAS: Arising out of (*e*) and (*g*) in view of the fact that among other things the total cost of the two Committees amounted to Rs. 34,800, will not the Government be pleased first to give the suggested method of the Bengal Paddy and Rice Committee a due trial before an officer is deputed to Japan to acquire expert knowledge for the purpose of learning how to grow more paddy in a certain area of land?

The Hon'ble Mr. TAMIZUDDIN KHAN: No, Sir.

Adjournment Motion.

Mr. PRESIDENT: The Chair has received notice of two motions for adjournment from Mr. Lalit Chandra Das of which the latter one connected with the Government order prohibiting publication of news relating to the Holwell monument agitation has now been withdrawn by Mr. Das. So there is only one motion which reads thus:—

"This Council do adjourn its business to discuss a definite matter of urgent public importance, namely, the situation which has arisen out of the recent decision by the Government to the effect that it is the present policy of the Government that when an appointment is reserved for a candidate of a certain community and no suitable Bengali candidate of that community is available, attempts should be made to recruit a candidate of that community from outside Bengal before the appointment is thrown open to candidates of other communities."

Is it the pleasure of the House to permit Mr. Das to move his adjournment motion?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I have objection.

Mr. PRESIDENT: As there has been objection, those members who support this motion that leave be granted to the honourable member will rise in their places.

(Members rose in their places and a count was taken.)

Mr. PRESIDENT: As not less than thirteen members have risen in their seats to support this motion, the Hon'ble Member is informed that he has the leave of the House. Sir Bijoy Prasad, when do you think this matter may be taken up?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: This may be fixed for Monday, Sir.

Mr. PRESIDENT: The time for taking up this adjournment motion is fixed at 2-30 p.m. on Monday next.

Felicitations to new members.

Mr. PRESIDENT: Before taking up the Order Paper of the day, I welcome the recently-elected members of this House to their new sphere of work. They are all men having experience of various walks of life to their credit and I doubt not that the Council will benefit from their wise counsel.

It must be a matter of considerable satisfaction to the Hon'ble Members to find the Hon'ble Sir Bijoy Prasad Singh Roy, now a full-fledged member of the Council, occupying the seat of the Leader of the House. Sir Bijoy is not only a parliamentarian of considerable ability but also claims administrative experience as a Minister of the Crown for over a decade. With an experienced parliamentarian like him serving as the connecting link between this House and the Government of the day, it may be confidently expected that all questions affecting the dignity and privileges of the Council will henceforth be tackled energetically and solved to the satisfaction of the members.

Appointment of Committees.

Mr. PRESIDENT: I am to inform the honourable members that the Bengal Legislative Council Procedure Rules prescribe that some Committees are to be appointed by the House and others are to be nominated by me on the eve of each session or in the first session after the commencement of each financial year. But as the election of the Deputy President is to take place on the 2nd August, I have decided to postpone these matters till the election is over.

Bills assented to by the Governor.

Mr. PRESIDENT: I have to inform the honourable members that the following Bills which were passed by both Chambers of the Bengal Legislature have been assented to by His Excellency the Governor under the provisions of section 75 of the Government of India Act, 1935, viz.:—

(1) The Bengal Finance (Amendment) Bill, 1940.
(2) The Bengal Jute Regulation Bill, 1940.
(3) The Bengal Workmen's Protection (Amendment) Bill, 1940.
(4) The Inland Steam Vessels (Bengal Amendment) Bill, 1940.
(5) The Bengal Non-Agricultural Tenancy (Temporary Provisions) Bill, 1940.
(6) The Bengal Agricultural Debtors (Amendment) Bill, 1940.

I am also to inform the House that the Bengal Money-lenders Bill, 1940, as passed by both Chambers of the Bengal Legislature, which was reserved by His Excellency the Governor for the assent of the Governor-General, has been assented to by him in the name of His Majesty the King-Emperor.

Message sent by the Bengal Legislative Assembly.

SECRETARY to the COUNCIL: Sir, I have received the following message sent by the Hon'ble Speaker of the Bengal Legislative Assembly, viz., that the Bengal Legislative Assembly at its meeting held on the 9th April, 1940, agreed to the amendments made by the Council to the Bengal Tenancy (Third Amendment) Bill, 1939.

Bengal Raw Jute Futures and Hessian Cloth Futures Ordinance, 1940.

The Hon'ble Mr. TAMIZUDDIN KHAN: Mr. President, Sir, I beg to lay before the Council the Bengal Raw Jute Futures and Hessian Cloth Futures Ordinance, 1940, under section 88(2)(*a*) of the Government of India Act, 1935.

Bengal Shops Establishments Bill, 1939.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to present the report of the Select Committee on the Bengal Shops and Establishments Bill, 1939.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I have the honour to give notice that I desire to move in the current session of the Bengal Legislative Council the following amendment to Khan Bahadur Ataur Rahman's motion that the Bengal Ferries (Amendment) Bill, 1939, be taken into consideration, namely:—

That the Bill be circulated for the purpose of eliciting opinion thereon by the 20th July, 1941.

Sir, as I had no opportunity to give earlier notice to the House, in case the resolution comes up for discussion next Friday, I would request you, Sir, to waive the rule regarding ten days' notice and give necessary permission for me to move the amendment.

Mr. PRESIDENT: Permission given.

NON-OFFICIAL RESOLUTIONS.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I beg to move that: this Council is of opinion that the Local Government should move the Government of India to recruit soldiers from among the Bengalis so as to raise a permanent unit with a view to its incorporation into the Indian Army.

Sir, for the third time in the course of the last decade, it is my pleasant privilege to be able to advocate the cause of Bengal in the matter of military training. Recruitment for the Indian Army has never been done on a liberal basis and since the establishment of British rule in India, Bengal's claim for equal treatment with the other provinces has been sadly ignored. We have cried ourselves hoarse over the legitimacy of our claim for participation in National Defence, but in vain. Never before was the defence problem so acute, so pressing, as it is to-day. The military advisers of the Government seem to forget past history when they characterise the Bengalis as a non-martial race. Their exploits in various fields in the past could do credit to any fighting race in India but unfortunately all this has been lost in oblivion. Years of inactivity and quill-driving have robbed them of their martial instinct. Given the necessary opportunities, they will, I feel sure, prove their mettle when the time comes along with other units of the Indian Army. If the 49th Bengali Regiment had been kept alive and had not been disbanded after the last war, we would perhaps have by now an Army Corps of our own fully trained and equipped with modern armaments. But, unfortunately, Bengal has fallen upon evil days. She is denied her rightful place in all spheres of public activity not only by our rulers but also by the sister provinces. The financial resources of this country are being tapped for the successful prosecution of the war, but it is not money alone that can win the war. Bengal with her vast resources in men and material can be of

immense help to Britain in the grim struggle in which she is engaged at the present moment. The war is no longer confined to any particular area or country. It threatens to extend its zone to territories hitherto unaffected by it. India has so far been free from any turmoil, internal or external. With the entry of Italy into the war and the consequent spread of hostilities to the Middle East, India may be said to be within striking distance of the enemy. One sure proof of this is furnished by the sinking of the "Pathan" some time ago, near Bombay. The position of Bengal is worse still. The recent changes in the Japanese Cabinet and the hostile attitude of the Japanese Press and the people towards Britain furnish ample food for reflection. Japan is out to establish a new Order in East Asia. She is anxious to conclude an unholy alliance with the Axis Powers and to settle her disputes with Soviet Russia. All these unmistakably point to a state of things which is far from reassuring. His Excellency the Commander-in-Chief of His Majesty's Forces in India in a broadcast talk in June last stated that it could not be declared with certainty that India would be immune from attack in future. Both His Excellency the Commander-in-Chief and His Excellency the Viceroy exhorted the people to sink their differences and to unite for the defence of their motherland. Whatever differences may exist between the British Government and Nationalist India in regard to India's right to Self-determination, it cannot be gainsaid that India as a whole is on the side of the Democracies. Members of all the faiths—Hindus, Moslems, Christians, Buddhists and Parsis, have been all praying for the success of the cause for which Britain has taken up arms and the downfall of Nazi Germany and Fascist Italy.

With the exit of France from the theatre of war, the main burden of the struggle has fallen upon the British Empire. India has undoubtedly an important part to play in the effort which all members of the Commonwealth must now put forward. This is a solemn thought which is uppermost in our minds. To quote the memorable words of Mrs. Sarojini Naidu while opening the North Arcot District Political Conference held in June last: "India's destiny is woven with that of Great Britain. The advent of dictatorship through a victorious Germany would be a tragedy of tragedies". In a personal message to President Roosevelt, Dr. Rabindra Nath Tagore in his characteristic style said "To-day we stand in awe before the fearful destructive force that so suddenly swept the world. I deplore the smallness of our means and feebleness of our voice in India so utterly inadequate to stem in the least the tide of evil that has menaced the permanence of civilization. All our individual problems of politics to-day have merged into one supreme world politics which, I believe, is seeking the help of the United States of America as the last refuge of the spiritual Man".

Sir, we in India who are nearly eight thousand miles away from the battle-zone cannot conceive the nature of the devastation which a ruthless enemy is causing in Europe. Although we are feeling the distressing effects of the war, nobody can say when India will be directly involved in it. Then again, Sir, Russia is a dark horse. It is difficult to forecast with any degree of accuracy what the next move of the Soviet will be. The gradual extension of her territories, the non-violent absorption of the Baltic States in the U.S.S.R., the annexation of Bessarabia and a portion of Bukovina are factors of great moment. Stalin's silence is ominous and to my mind it implies his tacit approval of the Nazi methods which have been employed in Europe since September, 1939.

Sir, not only Bengal but India as a whole is defenceless and is unprepared to resist invasion should it at all take place. Our rulers do not seem yet to have realised the gravity of the situation. For, if they were alive to the danger ahead, they would have adopted defence measures long ago and equipped the country's youth to meet any emergency that might arise in future. The indifference of the authorities in this matter is not only criticised by the Indians but also by the "Statesman" which has not been sparing in its condemnation of the Government policy in regard to this country. It is the moral responsibility of Britain to make each unit in the Commonwealth self-sufficient in every respect, in which, at a time of danger, it must be left without external help as has rightly been observed by Mr. Rajagopalachari. Such a policy is the outcome of distrust on which British Indian policy is based.

Sir, however much we may criticise our rulers, India's destiny is inseparably linked with that of Britain. We rise or fall together, but to our regret the British statesmen of the present day do not seem to realise that a contented India is a bulkwark against any menace to the British Power. The admission of the Bengalees to military training will be greatly appreciated and Bengal will rise as one man to help Britain with all her might at this critical period of the British Indian history.

It is understood that the distinction between the so-called martial and non-martial races in India has been done away with by the Army authorities in order to fill the quota of one lakh of men needed by the Army expansion scheme announced by His Excellency the Commander-in-Chief. We are told that a decision has been reached already for the formation of a Bengali Battalion of the Indian Territorial Force. We welcome the formation of the Bengal Coastal Battery Corps to be incorporated in the Indian Corps. One Battalion from Bengal will hardly serve the purpose for which it is intended; military training should be thrown open without any restriction in order to enable Bengal to discharge her obligations to the State in all the departments of the modern warfare, namely, on land, sea and air, and when I ask for this

concession, I think I have the unanimous support of all sections of the public of Bengal.

With these words, I commend my Resolution to the acceptance of the House.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that the Local Government should move the Government of India to recruit soldiers from among the Bengalis so as to raise a permanent unit with a view to its incorporation into the Indian Army.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to support this resolution. I submit this is a very timely resolution. It is very necessary and desirable that people from Bengal should be enlisted in the Army. I understand that committees have been set up in different districts in Bengal to select candidates for the Army. It has been very recently announced that the numerical strength of the Indian Army would soon be increased by one lakh and that Bengal will have a separate unit of her own. This resolution is a move in the right direction and we can show a real depth of public feeling by actual enlistment in the Army.

But there are certain quarters which seem to think that India can obtain her freedom without the help of an army and that if India is given complete independence now, she would maintain that independence without any army, that is, by non-violence. I believe, Sir, these ideas are, to say the least, thoroughly unpractical. I have the greatest respect and sympathy for the authors of these opinions. They sincerely and innocently believe that in this world independence can be acquired or maintained without arms. But this is not practical politics. In fact, non-violence, in the event of an armed invasion, is absolutely childishly meaningless. Suppose, one fine morning Russia comes to invade India,—which is not very unlikely,—and if Britain withdraws her support from India, then what would India do? There are sincere patriots who profess to believe that we should offer non-violence, and when that is done—they say—it would by magic paralyse her aggressive instincts and would convert her to non-violence so much so that she would instantly go back without invading India and without robbing India of her independence or her wealth. I submit that this is fantastic in the extreme.

I believe Muhammadans and Christians and recently, some of my more enlightened Hindu friends, have been killing fowls for their food for a long time. These birds offer ideal non-violence to their killers. Still, the propensity to kill them has not abated in the least but, on account of the delicious meat, is on the increase. He-goats are sacrified by the Hindus at the altar of their Goddess *Kali* from still remoter times. These meek animals offer sincere non-violence. Yet the sacrifice goes

on merrily as ever. Some people are troubled by bugs and mosquitoes. Our wiseacre philosophers would say that in order to stop their blood-thirsty propensities we should offer non-violence. To kill them by spraying Flit or to set up mosquito-nets to bar the activities of the mosquitoes would be the negation of non-violence. Real non-violence from the philosopher's point of view would be to sleep at night in open beds without mosquito nets. If their philosophy holds, the result should be that the mosquitoes would be staggered at our non-violence, would themselves be fully converted into non-violence and would go back quietly home without biting anybody. If these things are possible, then, of course, independence can be certainly and effectively maintained by non-violence. I submit independence can only be acquired or maintained through armed violence. It is only necessary to refer to the well-known and disastrous example of France. An old and civilised nation armed to the teeth and one of the most chivalrous and martial nations of Europe, France has collapsed before superior force, and in the face of this, to talk of non-violence on the battle field would be the height of unwisdom. Now, Hitler stood almost before the gates of England. And if there was no Mr. Churchill, alert and ready to receive him with deadly arms and armaments in deadly determination, Hitler would not have gone back as he has practically done already.

I think these remarks would be sufficient to show that India can obtain freedom and maintain it only through her armed strength and that this resolution is a move in the right direction. I, therefore, wholeheartedly support the same.

Mr. NUR AHMED: Mr. President, Sir, I rise to support this resolution wholeheartedly. I congratulate the honourable mover of this resolution for sponsoring it at a very appropriate time. There is a feeling in the country—a strongly-resented feeling—that we Bengalees are dubbed as being non-martial, but if we go back to the period before the advent of British Rule in Bengal, what do we find? We find that Bengalees were a martial race which used to fight courageously to defend their own hearths and homes with full valour and spirit. But unfortunately, it was a part of the policy of the early British Rule to deprive the Bengalees of their martial spirit, and this was done by issuing a circular that no Bengalee should be taken into the Army. Mr. Hunter in his book describes in a very pitiful language how the Indian Moslems were shut out from the Army,—a service was most attractive and most lucrative for Moslems at that time especially for the sons of the aristocracy and the landed proprietors. This suicidal policy of shutting out Moslems from the Army brought ruin upon that great community. There is no earthly reason why the Bengalees, who have proved their worth and merit in every walk of life, should not shine in this sphere also. Sir, there is another patent fact, and it is

a proved fact before the world, that the sons of Bengal are exploring every corner of the world as sailors; they have given proof of their valour and never shrank from fighting the King's battle. There is no reason, therefore, why the Bengalees would not rise equal to the occasion and prove their worth in the Army.

Sir, with these few words, I wholeheartedly support the resolution.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Mr. President, Sir, I consider it a privilege to support the resolution which has been moved by my friend Rai Bahadur Keshab Chandra Banerjee. Nothing has been more galling to the pride of the Bengalee people than that they have been so far debarred from the Army and from the privilege and right of defending their country against either external attack or internal disorder.

The people of Bengal, Sir, have never been reconciled to the atrocious theory of so-called martial races. To us this theory has appeared as only a convenient method of favouring some and ignoring others. I can never believe that the people of our province will acquit themselves less creditably as soldiers than people elsewhere in this country. During the last War, the Bengalees had an opportunity of proving their mettle and their honour. This opportunity they utilised to the satisfaction of all. It has certainly been a source of mortification to us that after the War their services were no longer required in the Indian Army.

I may repeat, Sir, that military service is a privilege which cannot be confined, without grave injustice, to some and denied to others. It should be remembered that the expenses of Indian defence are as much met by us as by others. It is, therefore, in the fitness of things that all those who pay for the piper should have the right to call for the tune.

The Bengal Cabinet, Sir, has a considerable responsibility in this matter. It is not too much to expect that it will convey to the Government of India, with as much emphasis as the subject may demand, the opinion of the people of Bengal in regard to the system of military recruitment in this country. The Ministers, whatever differences there may be between them and us in other respects, are expected to see eye to eye with us in this all-important matter. I am certain they will faithfully represent our views to the Government of India.

With these few words, Sir, I give my whole-hearted support to the resolution moved by the Rai Bahadur.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I do not know where to begin so far as this resolution is concerned. First of all, the responsibility of the local Government in this matter is to a very large

extent debatable, because the defence of India and all questions connected with the Army, Navy and the Air Force are under the control of the Government of India, the Provincial Government having no say in the matter. Therefore, representations from Bengal, in my opinion, should be made through their accredited representatives in the Central Legislature, viz., through the members of the Central Assembly and the Council of State. Whatever steps the Government of Bengal may take, they may do so by virtue of their relationship with the Government of India; but it is extremely debatable, Sir, how far we are responsible to the House in this matter. But in any case, I am glad to state that owing to the efforts made by Government and the considerable assistance which we have received from His Excellency the Governor, the principle has been recognised and the Army headquarters have agreed that a battalion of territorial force would be recruited from among the Bengalees for the duration of the War. Furthermore, as you may have read in one of His Excellency the Governor's speeches that the question of increasing the strength of the battalion or adding to the battalion other battalions would depend upon how those Bengalees acquit themselves. Therefore, to a very large extent this question has already been solved, and satisfactorily solved. Now, in my opinion it is our duty to see that we supply men who will be a credit to Bengal and the Bengal battalion. It is our duty to see that we do not make the mistakes that we made last time in recruitment. The assistance of all the members of this House, of all communities, creeds and castes, is necessary in providing the right type of men who will be able to serve in the Army and who will be able to hold their own with the units of other battalions. In this connection, I would like to observe that any assistance that may be rendered to the committees that will be appointed for obtaining recruits will be most welcome by Government.

Sir, I have got nothing further to add. As far as the debate is concerned, according to the usual practice, it will be forwarded to the Government of India.

Mr. HUMAYUN KABIR: Mr. President, Sir, there are two points in the speech of the Hon'ble Home Minister which deserve some consideration. The first is with regard to the form of the resolution. This resolution does not hold the present Government responsible for the fact that there is no Bengalee regiment or army. It only requests the local Government to move the Government of India, and we are glad to learn from the Hon'ble Home Minister that the Government have already moved in that direction, and if we have any quarrel with him on that score, it will be only for the reason that this Government has not been as forward or as quick as we might have expected. So, on that first point, there is no reflection whatsoever on the present

Government, but it is a request that the local Government should move the Government of India. and I think that on this point there will be no objection from the side of Government also.

Then, there is the other consideration that it is primarily a matter which is the responsibility of the Central Legislature. But I think, Sir, that with the inauguration of Provincial Autonomy the responsibility of the local Government has increased in this matter. So long as you have a Central Government which is autocratic and centralised, which is not federal in form, it does not matter very much where soldiers are recruited from; but the moment you contemplate a federal form of Government—and to-day there is nobody in India who can think of any other form of Government than federal—this question of recruitment from the different units becomes one of the most important questions with which we have to deal, and here I think, Sir, as the representative of this province, as the executive head of this province, there is a very serious responsibility on the local Government to press upon the Government of India to recruit Bengalees in large numbers, and not only to form a battalion for use as a territorial force during the course of the war. Sir, one of the tragedies of British history throughout has been that it has always been half-hearted, vacillating and pusillanimous in its attitude to India. It has always been a little too late. It has given a half loaf when perhaps a full loaf was necessary, and it has offered a full loaf where probably a bunchful of loaves would not suffice to satisfy the hunger of the people. Again and again, British policy has been a little too late, a little too vacillating, and a little too half-hearted. Here also, with regard to the particular question of the defence of India the same thing applies in a very strong manner. I do not want to reiterate what different members have said, though there are one or two remarks of my honourable friend the Khan Bahadur which deserve some comment. He unfortunately mixed up non-violence and non-violent resistance into which I need not go, but the particular argument which he advanced from the fate of France did not justify his own conclusion, but if anything, perhaps added strength to the contention of those who differ from him in principle. But this is by the way, and we do not propose to enter into that discussion in detail.

The question is that if India is to be defended, it should be defended properly and effectively and for that purpose we require an army not merely of one lakh of men on the basis of territorial units. Bengal cannot be satisfied with the recruitment of only one territorial unit, and even that on a temporary basis, as if we are a set of bad boys and have got to prove our capacity first. We have to prove first our *bonâ fide*, and if we pass the test, we shall be looked upon as good boys and then we shall be given certain prizes. Some of the members have raised the question of distinction between martial and non-martial

races. It is a distinction which is entirely artificial; it is a distinction which has been created, and if we look into Indian history we find that this distinction has been created stage by stage. At one time the Telingis and the Bengalees constitued the major portion of the Army which the Britishers recruited in India and with the help of which they conquered, or at any rate interfered in the internal quarrels of the native rulers and by doing so succeeded in acquiring large tracts of territory. But with the increase of political consciousness and with the increase of education in those areas, these were declared to be non-martial races, because the British Government felt that if these people had arms, people who had political consciousness, those men might turn against the British power in India. Consequently the centres of recruitment were shifted from those regions to regions where there was less education and less political consciousness. Thus, the centre was shifted from Bengal to Bihar. The Bihar Brahmins and Mussalmans for a long time constituted an important section of the Indian Army, but as education spread further west and Bihar became more politically conscious, the recruitment there was stopped or almost stopped and shifted to the regions of the United Provinces and the hill tracts like Garhwal. But as political consciousness increased there also, again recruitment was further shifted and new regions were explored for the purpose.

The Hon'ble Khwaja Sir NAZIMUDDIN: Do you mean to say that the Punjab is the most uneducated province in India?

Mr. HUMAYUN KABIR: Sir, I do not want to make any reflection on any province, but certainly the general tendency has been to use for the purpose of recruitment those provinces in which there has been less political consciousness and this has led to the general shifting of the centres of recruitment from regions which had become politically more conscious. Calcutta had been the political Capital of India for a long time with the consequent heightening of its political consciousness. The history of India bears out sufficiently that the distinction between the martial and non-martial races in India is absolutely arbitrary. In Bengal's history we find that the Hindus had fought against the Pathans for a long time; the Pathans fought the Moghuls for equally long. We find one group fighting against another; we find the local chiefs fighting against the mighty power of the Moghuls even long after the period when the co-called martial races of the Punjab and Rajputana had been subjugated. It is within the knowledge of history that Bengal has given more trouble to the Emperors of Delhi than any of the other provinces; there had been more military resistance in Bengal than anywhere else in India against the Moghul conquest, and this equally applies to the Mussalmans and Hindus of Bengal. Therefore, to say that the Bengalees are not a martial race is a sheer travesty

of facts. This distinction between the martial and the non-martial races has been perpetrated only because the Government was so long not a responsible Government; because the form of Government was bureaucratic and foreign in its temper and character; but to-day with the advent of provincial autonomy the Government has been entrusted to responsible Ministers who are the children of the soil and it is up to them to see that this slur on the capacity of the Bengalees generally, without any distinction of caste, creed or religion, is removed. Another important consideration is that in a federal form of Government, if a particular provincial unit is not retained in all the different forms of the national service, viz., the Army, the Executive and other forms of service, that province is deprived of its share in the proper functioning of the national Government which is its rightful due. For these reasons, Sir, I submit that the local Government have a duty in the matter, even though they may not have a direct official responsibility.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I confess at the outset that the reply of the Hon'ble Minister leaves me cold. When I moved the resolution, I thought that the Hon'ble Minister would jump on his feet and give a sympathetic reply. It is not the first time that a resolution of this nature has been moved. Similar resolutions were moved in the past, and on the last occasion also, the Hon'ble Minister's reply was far from encouraging. As a son of Bengal and a responsible Minister of the Government he should realise his responsibility in this matter. We all know that the Government of Bengal is not directly concerned in matters relating to the Army. But if Bengalees were to voice their opinion in any matter, how would they do it unless they had a resolution passed in the legislature? The Hon'ble Minister has said that Bengal representatives on the Central Assembly might take up the subject. But I may at once tell him that the number of Bengal's representatives on the Central Legislative Assembly or on the Council of State being very small, it is next to impossible for them to carry any resolution without the support of the representatives of other provinces; and as you know, Sir, the feeling against Bengalees there is very strong and the non-Bengalees are apathetic to our problems, it is but natural that they would not feel any enthusiasm in supporting a resolution in which they are not at all interested.

Now, Sir, the Hon'ble Minister has stated that the purpose of this resolution will be served by a recent declaration made by the Army Department of the Government of India sanctioning the formation of a Bengalee battalion and that recruitment centres have been opened in different districts. In the course of my speech I made it perfectly clear that although the Central Government have made this concession, it does not go far enough. Our needs are many. We require not a battalion but an Army Corps for the defence of our country.

The Hon'ble Khwaja Sir NAZIMUDDIN: Who will pay for it?

Rai KESHAB CHANDRA BANERJEE Bahadur: A cut of 50 per cent. on the salaries of the Hon'ble Ministers will be imposed to form the nucleus of a fund for the purpose. (Laughter.)

Sir, as I have already said, Bengal is not free from the danger of foreign invasion. Italy has already joined the war and Japan shows her anxiety——

Mr. PRESIDENT: Order, order. Rai Bahadur, I do not want to interrupt you; but you are making a reply and in doing so you must not bring in any new point which has not been brought in by any previous speaker.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I am trying to develop my arguments on the points raised by the Hon'ble Minister. I am grateful to Mr. Humayun Kabir for the way in which he has clarified the real issue. I was going to advance the same argument but he has forestalled me. What is needed at the present moment is not indifference but close co-operation and active assistance. I would request the Hon'ble Minister not merely to forward this resolution for the consideration of the Central Government but to strongly recommend the proposal so that the Government of India may realise the importance of the question and the genuine craving of the people of Bengal for military training.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, in this connection I may be permitted to refer to a piece of information which though I do not possess officially, I saw in some newspaper yesterday or a few days ago, namely, that the Government of India in making recruitment to the Army are not confining themselves only to the martial races but are going to make their selection from the whole of India. Now, as far as the question of special treatment for Bengal is concerned, I beg to submit that if Bengal really wants an Army of its own and is prepared to pay for it, then, I am afraid, we must have to give effect not to the federal scheme of Mr. Humayun Kabir but to the scheme of Mr. Jinnah. For the present, however, the question is that India as a whole has got to be considered, India as a whole has got to pay for the Army and, therefore, the Government of India have got to select the men and materials. Wherever they get the best men, they should take them. There is no reason why, when they have to pay for it, they should take inferior material. In this matter, the Army people, who are at present choosing these people or those who are going to be in charge of the Army in future, will always have their discretion to make their own selection. It has just been said that in

the Government of India we are in a minority and that there is already a prejudice against the Bengalees. It is admitted that as far as all-India affairs are concerned, whether it be the Central Assembly or the Congress, the Bengalees do not get fair treatment. Nobody can deny that. Even in the Muslim League the position is the same. Therefore, it is idle to expect that in a federal scheme it will be possible to secure concession for the Bengalees in preference to the Punjabis and the people of the North-West Frontier Province.

Mr. LALIT CHANDRA DAS: But, Sir, in a mechanised army Bengalees can be expected to prove themselves better than the people of any other province.

The Hon'ble Khwaja Sir NAZIMUDDIN: That may be true, because brain and brawn do not generally go together. As a matter of fact, so far as the flying officers are concerned, I have it from Sir Sikander Hyat Khan that Bengalees are better than men of any province in India. Even compared with the Europeans, Bengalees are proving themselves as excellent flying officers. We have also found that Bengalees are doing good work in other spheres as well. But there are difficulties which I have explained before the House. Sir, I am at one with the honourable members of this House in their interest and desire to see that Bengal gets a fair treatment as far as recruitment to the Army is concerned. This Government, as I have already said, have made their representations to the Government of India and in this matter His Excellency the Governor has taken up the cause of Bengal most wholeheartedly and has done everything in his power to see that Bengal gets justice. But I do feel that the position being as it is, at the present moment we must be thankful even for the meagre recognition we have got. The prejudice of the Army headquarters and of the Government of India against the Bengalees is so great that we shall have to push forward our claims by persistent demands for some time to come.

Mr. PRESIDENT: Order, order. Resolution before the House is: that this Council is of opinion that the Local Government should move the Government of India to recruit soldiers from among the Bengalees so as to raise a permanent unit with a view to its incorporation into the Indian Army.

(The motion was agreed to without any dissentient.)

Mr. LALIT CHANDRA DAS: Sir, in view of the fact that the Hon'ble Chief Minister has already announced that the Government have decided to remove the Holwell Monument immediately, the resolution which stands in my name has become superfluous and so I do not move it.

Mr. NUR AHMED: Mr. President, Sir, I beg to move that this Council is of opinion that the Government of Bengal should make a representation to the Government of India either to grant to Bengal the entire jute duty-proceeds realised from the province of Bengal or to make an equal annual contribution from the revenues of the Central Government to the Government of Bengal with a view to enabling the Government of Bengal to introduce universal free and compulsory primary education in Bengal.

Sir, I think this resolution is self-evident and needs no speech from me. The honourable members of the House are well aware of the pitiable condition with regard to education in Bengal from the Hartog report and the report on education published by the Gvernment of India and the Government of Bengal. Fortunately, this matter has been gone into by a committee and that committee has published its report containing some suggestions. One of the suggestions has been embodied in the resolution I have now brought it before the Council, and in support of that I will only very briefly state the reasons which ultimately led the members of that committee to arrive at this conclusion. It is a known fact that a great injustice had been done to Bengal by the Meston Award, and although to some extent that injustice was righted by the Niemeyer Award, still Bengal has been deprived of a major portion of its income. Bengal's approximate income through jute and other sources comes to about 35 crores or 40 crores of rupees, while only 11 crores have been given to her which is absolutely insufficient to meet the growing demands of her vast population.

As the time at my disposal is very short, I do not want to dwell on the matter at any length. I only hope and trust that the members of the House will support the resolution unanimously.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that the Government of Bengal should make a representation to the Government of India either to grant to Bengal the entire jute duty-proceeds realised from the province of Bengal or to make an equal annual contribution from the revenues of the Central Government to the Government of Bengal with a view to enabling the Government of Bengal to introduce universal free and compulsory primary education in Bengal.

Mr. HUMAYUN KABIR: Mr. President, Sir, I am sure that this is a resolution about which, like the one which we have just now disposed of, there will be no difference of opinion in this House. There is perhaps no member in this House, or at any rate we expect that there will be no member in this House who will oppose this resolution, and even though just now I seem to find indications that there might, from an unexpected quarter, come some opposition to this resolution,

I am sure that before we have done with it and before the House has discussed it thoroughly, this suspicion of opposition will die out, and it would be nothing more than a mere suspicion. The proposal, Sir, is on the face of it just. Bengal contributes to the exchequer of India in many ways, of which the proceeds of jute-duty is only one; and since, at any rate, the amount of jute-duty which is derived from the produce of Bengal is a contribution by the cultivator of Bengal to the exchequer of India, it is meet and proper that he should get a proper return for it. I take it that the mover of the resolution does not imply by his resolution that the share of the jute-duty proceeds arising out of the jute-duty proceeds in Assam or Orissa is also to be given to Bengal. I take it that his intention is that the proceeds of the jute-duty so far as it relates to the jute produced in this province is his concern, and on this question, I think, Sir, there will be no difference of opinion in this House. If there were not this jute-duty, the cultivator would have secured a better price for his jute, for it is common-sense that when a consumer has to purchase the jute, he has got to pay the duty, and he is not going to pay it out of his own pocket; and because there is the jute-duty, the price of jute has decreased to that extent. Therefore, Sir, in that way it is a direct drain upon the resources of the cultivator in Bengal. The cultivator in Bengal is proverbially poor and his only money crop is jute. Even with regard to this money crop, he does not get the price which he would perhaps otherwise normally expect, because this tax is borne by the producer, not by the consumer. Therefore, Sir, it is in the fairness of things that this tax should come back to the producer in the shape of returns which the Government might give him in the form of universal free and compulsory primary education.

With regard to the question of universal free and compulsory primary education, there is no difference of opinion in any section of the House. I think on this point there will not be even any suspicion of opposition from any section of the House. But, Sir, there may be one objection which might be raised that if the entire jute-duty proceeds is to be given to the Government of Bengal, it might affect in certain ways certain other commitments of the Central Government and also perhaps the Government of Bengal. There is the Calcutta Improvement Trust which might perhaps be brought up. But I think, Sir, it is on the face of it inequitous that the cultivator of Bengal should be taxed and should be deprived of a fair price in order that the City of Calcutta should be beautified. We all want that the City of Calcutta should be beautified, but that is no reason why the cultivator of Bengal shall be deprived of what is his due in order to beautify this city, and particularly on account of the fact that in this city there are interests, there are groups, there are classes who can pay for the improvement which they claim for the city.

Then again, Sir, there is the question with regard to the Central Government. The Central Government takes the wealth of Bengal in many ways. The total income-tax collection from Bengal is probably the highest in India, and yet in spite of this the return which the Government of Bengal get from the income-tax realisations of the Government of India is very small. It is common knowledge and the Government of Bengal is also continually complaining that it cannot go forward with many of its constructive programmes, with many of its nation-building activities on account of lack of funds. Bengal, the most populous province in India, Bengal, with its greatest potential resources and with its greatest potential wealth, is also the greatest contributor to the exchequer of India. If we take all the contributions from the provincial exchequers and add them to find the realisation of the Central Government, the share of Bengal is perhaps the largest of all. Through customs, through income-tax, in every way Bengal contributes, and yet it is not asking for the return of the entire amount because Bengal realises that there are certain all-India services, there are certain all-India commitments which must be maintained. But with regard to jute, the position is different. It is the peculiar product of Bengal and it represents the sole money crop of the Bengal agriculturists, as I submitted a moment ago, and the need for education is a need which cannot be denied by anybody. Therefore, Sir, in view of these considerations, namely, that it is the only money crop, that it is a contribution which the province of Bengal is making for the maintenance of services elsewhere and for the City of Calcutta, and that it is a contribution which the cultivator is making though he himself lacks the services which are essentially necessary for him in his personal and communal life, it is meet and proper that the Bengal Government should represent to the Central Government that the entire jute proceeds might be given to the local Government.

There is also one other point to be remembered in this connection. Four or five years ago, I think it is five years ago, the Central Government agreed for the first time to grant a portion of the jute-duty proceeds to the Government of Bengal. Before that also arguments were continually raised as to why Bengal could not claim any share of the jute-duty proceeds. But the moment the Government of India conceded that Bengal was entitled at least to half, which was later increased by the Neimeyer Award to 62½ per cent., if I remember aright, the principle has been conceded. It is only a question of amount and I am sure the Government of Bengal will put all influence that they can exert upon the Government of India in order to get this money for Bengal and to give it that one service which is perhaps to-day the most crying need of Bengal, viz., universal free and compulsory primary education in Bengal. It is common knowledge that unless

this jute-duty proceeds in whole or at least a major portion of it is given to Bengal, we cannot find the finances for it. We have always stood for universal free and compulsory primary education, and we still stand for it and we think that even with the present resources of the Government of Bengal by proper adaptation of its budget, it might be possible to introduce free compulsory primary education in the province; but if the entire jute-duty proceeds be given to Bengal, then there is no difficulty about it, and even the present Government which has always shirked this question, which has always fought shy of facing it openly and squarely, will have no further excuse for delaying the settlement of the question of free compulsory primary education in Bengal, and that is a task which is the most important in Bengal to-day.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to support the resolution wholeheartedly and in doing so I quote a few comparative figures to show how injustice has been done to Bengal in the matter of contribution to Central Government. Sir, from the comparative figures we find that whereas Bengal contributes 26 crores 77 lakhs, Madras contributes 7 crores 67 lakhs, the United Provinces 4 crores 22 lakhs, and the Punjab 1 crore 1 lakh; and whereas Bengal is left only with 10 crores 97 lakhs, Madras is left with 17 crores 53 lakhs and Bombay is left with 15 crores 22 lakhs, although the population of these provinces is far less than that of Bengal. Sir, this great wrong done to Bengal will be partially righted, if the entire jute tax is contributed by the Central Government to Bengal for its primary education. Sir, the primary education problem has been hanging fire for a long time in Bengal. It was originally estimated that a crore and a half will be enough to give a start to free primary education in Bengal. But, Sir, since then a committee was instituted and the committee has given its report from which it appears that 3 crores 80 lakhs or something like that will be required if Bengal is to have its free primary education.

Sir, it will be impossible for Bengal to arrange for the additional amount of Rs. 2,30,000 out of its own funds. If the Government of India do not come to its rescue it would be next to impossible for Bengal to have free primary education as is contemplated. Therefore, I think it is apt and proper that the Government of India should be requested that in view of the injustice done to Bengal, Bengal should be given the full amount of the jute tax contributed by Bengal.

With these words, Sir, I wholeheartedly support the resolution.

Mr. BANKIM CHANDRA DATTA: Sir, we on this side of the House wholeheartedly support this resolution.

Mr. J. B. ROSS: Sir, we the European Party in this House, oppose this motion but we oppose it for reasons connected with the drawing up of the motion. We have every sympathy with the idea which is in the mind of the mover but the manner in which this resolution has been drawn up means that if it were forwarded to the Government of India it could not be implemented. We have sympathy with the introduction of free primary education in the province, but this requires a tremendous amount of money and the fact has to be faced that there is on the statute book at this moment a Rural Primary Education Act which is not being enforced because of the scarcity of funds. We in this group would like to see the other half of the jute-duty remitted by the Government of India for the benefit of the revenues of this province, but I do not think that we have any right to ask the Government of India to give up that half of the jute-duty for a specific purpose nor do I think that we can possibly ask the Government of India to give us a contribution from the Central revenues for the benefit of free primary education in this province because it is not within their power to do so; and if they did it, there would be demands from every other province for the same kind of treatment. Therefore, our opposition is based not on any opposition to the ideas of the mover but merely because we think that the resolution, as drafted, could not possibly be inplemented and, therefore, should not be forwarded to the Government of India.

Mr. PRESIDENT: Order, order. The House stands adjourned till 2-15 p.m. on Monday next.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 29th July, 1940.

Members absent.

The following members were absent from the meeting held on the 26th July, 1940:—

(1) Mr. Narendra Chandra Datta.

(2) Mr. Kamini Kumar Dutta.

(3) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(4) Khan Bahadur Syed Muhammad Ghaziul Huq.

(5) Khan Bahadur Muhammad Asaf Khan.

(6) Dr. Radha Kumud Mookerji.

(7) Khan Bahadur M. Shamsuzzoha.

B. G. Press—1940-41—6474A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 29th July, 1940 at 2-15 p.m. being the second day of the Second Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Establishment of Senior Madrassahs for Muslim girls.

9. Mr. NUR AHMED: (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state if his attention has been drawn to various resolutions passed by the All-India Moslem Educational Conference held in Calcutta during last Christmas holidays regarding various needs of the Moslems in matters educational?

(b) If so, what are those resolutions, and how far does the Government intend to give effect to them or to any of them? If not, why not?

(c) Is it a fact that a resolution recommending establishment of two Senior Madrassahs for girls—one at Chittagong and one at Dacca—was adopted at that Conference? If so, what steps has the Government taken or intends to take to establish a Senior Madrassah for girls at Chittagong?

(d) Will the Hon'ble Minister be pleased to state how many Madrassahs have been started in Bengal for the education of girls up to this time, and of these how many are Junior Madrassahs and how many are Senior Madrassahs and how much does the Government spend a year for their maintenance?

(e) Will the Hon'ble Minister be pleased to state what is the total number of vernacular training schools for Moslem girls in Bengal and how many girls were trained in these institutions in the years from 1930 to 1939?

(f) Is it a fact that the Government has decided to start a Bengali Training School for girls at Chittagong? If so, when will the school actually be started at Chittagong?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq, Minister in charge of the Education Department): (a) This Department has not been furnished with copies of resolutions of the Conference in question.

(*b*) and (*c*) The questions do not arise in view of the reply given to clause (*a*) above.

(*d*) (*i*) 21 Junior Madrassahs.

(*ii*) There is no Senior Madrassah for girls.

(*iii*) Rs. 22,308 during 1939-40.

(*e*) There is one Bengali Training School exclusively for Muslim girls in Calcutta where provision has been made for 28 students to be trained with stipends from Government.

A statement showing the number of Muslim students trained in the school during the years 1930-1939 is enclosed herewith.

(*f*) The matter is under consideration.

Statement referred to in the reply to question No. 9 showing the number of Moslem students who were trained in Muslim Female Training School, Calcutta, during the years 1930-39.

Year.	Number of students who came out successful.		
	Senior.	Junior.	Total.
1930 ..	..	4	4
1931 ..	..	3	3
1932 ..	..	2	2
1933 ..	..	..	..
1934 ..	..	4	4
1935 ..	..	4	4
1936 ..	..	7	7
1937 ..	..	9	9
1938 ..	2	8	10
1939 ..	..	6	6
Total ..	2	47	49

Introduction of a Bill to amend the Bengal Wakf Act, 1934.

10. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Education Department kindly refer to his reply to question No. 39 which was given on the 12th August, 1938, regarding introduction of a comprehensive official Bill for amending the Wakf Act and kindly say whether the Bill which was promised to be introduced during the August session of the Council in 1938 is ready now?

(*b*) Will he kindly state why nothing was done to redeem the promise within these two years?

(*c*) Will he kindly state definitely what stands in the way of immediate introduction of the promised Bill?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): The proposed official Bill to amend the Bengal Wakf Act, 1934, is intended to include provisions of great importance and its preparation involves a careful examination by experts of the various difficult problems that have been arising in connection with wakfs and their administration.

I can assure the honourable member that I have been doing every thing possible in my power to expedite the introduction of this Bill which I hope to be able to do in the near future.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state when we can expect the Bill to be introduced?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, as soon as we can finish drafting and get an agreement on the main principles of the new Amendment Bill, it will be introduced. As the honourable member knows, it is an extremely controversial subject where religious questions are mixed up. So, we have got to have a Bill which will remove the administrative difficulties experienced in the operation of the existing Bill, and at the same time will not come into conflict with the religious aspect of the wakfs.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that it was promised that it will be introduced in August, 1938—two years ago?

The Hon'ble Khwaja Sir NAZIMUDDIN: Quite true; but, Sir, I may point out to the honourable member that apart from Bengal no other province has yet been able to have a Wakf Bill passed through their Legislature in spite of repeated attempts on the part of the Legislatures of the other provinces to get a Bill through.

Maulvi ABUL QUASEM: Is the Hon'ble Minister aware that the United Provinces Legislature has already passed a Bill relating to wakfs which is now being worked?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I am not aware of it but I know this that they have been trying it for the last four or five years.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Was any meeting or conference called for discussing this controversial matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: So far, I believe the discussions have been confined between the Commissioner of Wakfs and the Education Department.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if any draft Bill was prepared as a basis for such discussion?

The Hon'ble Khwaja Sir NAZIMUDDIN: I believe a draft Bill or rather proposals were put forward by the Commissioner of Wakfs, I mean the predecessor-in-office of the present Commissioner.

Provision for evening commercial classes in the Islamia College, Calcutta, and Chittagong College for the training of Muslim youths.

11. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state what facilities exist at present in Bengal for training young Bengalis for commercial careers?

(*b*) What measures have the Government of Bengal taken or propose to take to provide adequate facilities for theoretical, commercial and technological training of Bengali youths?

(*c*) Is it a fact that the number of Muslim young men taking to commercial training is very small? If so, do the Government propose to attach evening commercial classes to the Islamia College, Calcutta, and to the Chittagong College for the benefit of Muslim young men of Bengal? If not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) There is in Calcutta a Government Commercial Institute which provides trainig for commercial careers in day and evening classes. The total number of students of the Institute last year was:—

(*i*) in day classes 307; and

(*ii*) in evening classes 226.

There are in addition some forty institutions in the Province working on similar lines, the courses of studies of which are approved by the Department of Public Instruction and the students of which take the examinations of the Government Commercial Institute. The number of students reading in these institutions is not available.

(*b*) The question is a wide one and not easy to answer exactly. Government have appointed two committees, one of which is considering the development of the Government Commercial Institute and the other the development of the Ahsanullah School of Engineering at Dacca. Government have also under examination an important memorandum on the subject by the Educational Commissioner with the Government of India compiled after an enquiry which this Government asked him to make.

(*c*) The number of Muslim students in the Commercial Institute, Calcutta, last year was—

(*i*) in day classes 48; and

(*ii*) in evening classes 15.

It is not possible to give the number of Muslim students reading in institutions affiliated to the Institute. There is a reservation of 25 per cent. of the seats for Muslims in the Institute. No qualified Muslim candidate has been refused admission into the Institute during recent years.

Until the future development of the Government Commercial Institute has been decided, it is not proposed to start evening commercial classes either at the Islamia College, Calcutta, or at the Chittagong College.

Recommendations of Mr. M. M. Stuart, I.C.S., in the Khas Mahal Report, 1938.

12. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if he has considered the recommendations of Mr. M. M. Stuart, I.C.S., as contained in his "Khas Mahal Report, 1938"? If so, which of these recommendations have been accepted by Government and which of them have not been accepted?

(*b*) Have the Government given effect to Mr. Stuart's recommendations regarding reduction of rent, collection of rent and modification of certificate procedure and remission of rent? If not, why not?

(*c*) Is it a fact that in the district of Chittagong the Sunset Law, i.e., the Revenue Sale law, is still being applied in realising rent and revenue of holdings bearing annual rent of Rs. 50 upwards in all cases though there is no widespread, systematic and wilful default?

(*d*) Is it a fact that some years ago the *Punyah* system was successfully tried in Chittagong for collection of *Khasmahal* rent and Government revenue? If so, why has it been abandoned? Do the Government intend to reintroduce it in Chittagong to check corruption, if any, among the *Khasmahal* staff?

(*e*) Is it a fact that the estates and holdings in Chittagong are being put to sale even for one or two *kists*, or for one year's rent, to the great suffering of defaulting proprietors? If so, does the Hon'ble Minister propose to relieve these defaulting proprietors in Chittagong by issuing a general order that no estate or holding should be sold for not less than two years' arrears and that also after giving sufficient facilities to the tenants to clear off their dues?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) and (*b*) Most of the recommendations have been considered. Action has been taken on some of them and others are being considered by Government.

(*c*) The law is being applied to those bearing an annual rent of Rs. 50 or more. That defaults should be widespread, systematic and wilful is not a condition precedent to the enforcement of the law.

(*d*) No.

(*e*) The law is being administered leniently and deserving cases are exempted from sale. Government do not propose to take action in the manner suggested.

Election of President of the Tilli Union Board.

13. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state whether it is a fact that in the appeal by the appellant defendant No. 1 Golam Mortuza Moulik against the decision of the District Judge of Dacca, affirming that of the Munsiff at Manickganj, in a suit brought by the plaintiff respondent Munshi Maniruddin Ahamad, Mr. Justice Henderson upheld the decisions of the lower courts declaring the plaintiff respondent Munshi Maniruddin Ahamad as the duly elected President of the "Tilli Union Board" lying within the Manickganj subdivision of the Dacca district?

(*b*) Is it a fact that the Circle Officer presided over the meeting for election of the President? If so, what is the name of that Circle Officer and how long is he in office?

(*c*) Is it a fact that the plaintiff respondent Munshi Maniruddin Ahamad obtained six votes in the meeting for election of the President and the appellant defendant No. 1 Golam Mortuza Moulik got the remaining three votes? Is it a fact that the former is a member of the Krishak Proja Party and the latter is a member of the Moslem League Party of that locality?

(*d*) Is it a fact that Hon'ble Mr. Justice Henderson held that after the votes were recorded, the Circle Officer on most flimsy grounds

ignored three of the votes given in favour of the plaintiff pretending that each candidate had an equal number of votes and proceeded to give his casting vote in favour of defendant No. 1?

(*e*) Is it a fact that the Munsiff as a matter of fact found that the Circle Officer was acting in collusion with the aforementioned Golam Mortuza Moulik, defendant No. 1, and that Mr. Justice Henderson upheld that finding as fully justified?

(*f*) Do the Government intend to take action against that Circle Officer? If so, what? If not, will the Government be pleased to state the grounds for not holding up that officer to punishment?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, Minister in charge of the Public Health and Local Self-Government Department): Steps have been taken for collection of the information which is not yet available.

Mr. LALIT CHANDRA DAS: May I take it, Sir, that when the information is collected, answer will be given without a fresh notice?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Extension of date for presentation of Select Committee Report on the Bengal Legislative Council (Powers and Privileges) Bill, 1939.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, with your permission, I beg to move that the date for presentation of the report of the Select Committee on the Bengal Legislative Council (Powers and Privileges) Bill, 1939, be extended to November 15th next. I may state by way of an explanation that it has not been possible for me to take up the work so far on account of some unavoidable circumstances.

Mr. PRESIDENT: Motion moved: that the date for presentation of the report of the Select Committee on the Bengal Legislative Council (Powers and Privileges) Bill, 1939, be extended to the 15th November, 1940.

(The motion was agreed to.)

Special motion on amendments to Bengal Motor Vehicles Rules, 1940.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that this Council is of opinion that the Government do now take steps to amend the Bengal Motor Vehicles Rules, 1940, by incorporating therein the amendments noted below.

Mr. PRESIDENT: Motion moved: that this Council is of opinion that the Government do now take steps to amend the Bengal Motor Vehicles Rules, 1940, by incorporating therein the amendments noted below.

I do not think it is necessary to read out the amendments which cover twelve pages. The papers have been circulated to all the members.

Mr. Nur Ahmed, do you move your amendment with regard to rule 2?

Mr. NUR AHMED: No, Sir.

Mr. HUMAYUN KABIR: On a point of information, Sir. Will not the Hon'ble Minister move the amendment with regard to rule 2 first, and then the other amendments may be moved?

Mr. PRESIDENT: He has moved all the amendments by his first motion.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, may I make a statement on this before a discussion is started?

Mr. PRESIDENT: Yes; Sir Nazimuddin.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I would like to mention before the House that these Motor Vehicles Rules were discussed at the joint conference of the representatives of the Assembly and the Council in accordance with resolutions passed in this House and the other House. I may state further that we went into this question most thoroughly. We had a number of meetings—I believe 11—and every rule was gone into most carefully, after which I am glad to state that we have been able to come to unanimous decision on practically all the rules. It is only on one question, however, that the members of the Opposition of this House and the other House differed from the rest. But as regards the other two questions, there was only one dissentient, namely, Mr. Lalit Chandra Das. It is an individual dissension which has not been supported by any other member. Now, Sir, in view of the fact that we have gone into the question so carefully and thoroughly and in view of the fact that representatives of all the groups were of the opinion that as far as possible the rules should be accepted, only those cases may be raised here in regard to which there are some technical or really serious difficulties——

Mr. PRESIDENT: Order, order, it is now time for taking up Mr. L. C. Das's motion for adjournment of the House.

Adjournment Motion.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I beg to move that this Council do adjourn its business to discuss a definite matter of urgent public importance, namely, the situation which has arisen out of the recent decision by the Government to the effect that it is the present policy of the Government that when an appointment is reserved for a candidate of a certain community and no suitable Bengali candidate of that community is available, attempts should be made to recruit a candidate of that community from outside Bengal before the appointment is thrown open to candidates of other communities.

Sir, this is communalism *par excelsis*, rather communalism run mad. Our Ministers pride themselves and call themselves popular Ministers of a popular Government which would mean Government of the people, by the people and for the people of Bengal; but the present policy discloses that this Government stands for people outside Bengal even to the detriment of the best interest of the people of Bengal and makes a sad yet true confession that it is an out and out communal administration. There is, however, nothing to wonder at. The Ministry depends for its very existence upon communal favouritism and fanning the flame of communalism. In fact, Communal Award is at the root of all the evils we suffer from in Bengal politics.

Sir, the genesis of the present policy is this: the Department of Agriculture and Industries some time in August, 1939, enquired of the Public Services Commission regarding the selection to be made for the post of the Deputy Director of Agriculture in the Bengal Higher Agricultural Service. Sir, the Commission in its turn enquired of the Finance Department as to the principle to be adopted in the case of posts reserved for Muslims—whether in such cases, the posts should be thrown open to the non-Muslim candidates in the event of suitable Bengali Muslims not being available, or whether an endeavour should be made to secure suitable Muslims from outside Bengal before such posts are thrown open to non-Muslim Bengalis. The question was easy; but the reply was difficult and although it was very desirable to meet the emergency by making appointments as soon as possible, several appointments as well as the reply were held up. Government, however, came to a decision 11 months after, in May, 1940, at Darjeeling and this decision embodies the present policy of the Government which is now the subject-matter of discussion in this House.

Sir, it will be pointed out by the Government that in the case of those services for which recruitment rules prescribe that the recruitment is reserved for candidates who are natives of or permanently domiciled in Bengal and make no provision for relaxation, its decision is that if no suitable Bengali candidate is available for appointments earmarked for a particular community, it shall be thrown open to Bengali

candidates of other communities. This rule mostly covered jobs more or less of a clerical nature and in which Government have no other alternative but to do so, as the recruitment rules make no provision for relaxation. The present policy of the Government will affect all special and technical services under the Government which are responsible for the progress and good name of the province. It will affect the following services: The Bengal Higher Veterinary Service, the Bengal Higher Agricultural Service, the Bengal Senior Service of Engineers, the Bengal Lower Veterinary Service, the Bengal Lower Agricultural Service, the Bengal Engineering Service, the Bengal Medical Service, the Bengal Factories Service, the Bengal Boilers Service, the Bengal Smoke Nuisances Service, the Bengal Forest Service, and the last, item No. 12, all posts in the Bengal General Services other than the post of the Bengali Translator to Government.

The last item—item No. 12—alone covers about 200 posts in the Appointment Department and the Departments of Commerce and Finance, Judicial, Legislative, Marine, Political, Political Jails, Revenue, Revenue Excise, Public Works, Local Self-Government, Medical, Public Health, Agriculture, Industries, Education and Registration. Sir, there are the Bengal Services Recruitment (Communal Ratio) Rules, 1940, framed and published by Government. I pause to enquire if there is any rule there providing for the relaxation of domiciliary qualification. If so, what are the exceptional circumstances in which they can be relaxed. Rather the rule is that preference should be given to candidates who are natives of or permanently domiciled in Bengal. A responsible Government cannot evade it by saying that it is a mere statement. But I anticipate that a communal Government will lay undue stress on the language of section 4 of the Bengal Services Recruitment (Communal Ratio) Rules, 1940, to override the domiciliary considerations. I deny that the language of section 4 of the rules is capable of any such interpretation. It deals with parity and parity was never intended to be brought about in the public services by importing Muslims from abroad. On the contrary, that parity was intended to be brought about, according to the Government Resolution of 19th June, 1939, by Bengali Muslims holding minimum qualifications. Owing to the dearth at present of Bengali Muslims qualified to hold special and technical services of the Government, parity may not be reached as quickly as the communalists desire. But regard being had to the rapid strides in education made by Bengali Muslims, the communalists should have held their souls in patience for a few years and trusted the Dacca, Calcutta and foreign universities and should not have thrown open the gates of the prize posts to outsiders when non-Muslim Bengalis with maximum qualifications are available for them.

Sir, let me say here and now—should non-Muslim communities fail to furnish qualified candidates for jobs ear-marked for them, they would

spurn the idea of bringing in outsiders of their community however qualified they may be to fill them, provided Bengali Muslims duly qualified were available for those jobs; for, they are the bones of our bones, the flesh of our flesh and are the children of the common family of Mother Bengal. The question is, when qualified Bengalis are available, whether the bread of any one single member of that family should be given to outsiders. The communalists and the *Pakisthanists* will say—"yes, but our answer is an emphatic no."

Sir, recruitment to public services on communal considerations was very strongly opposed as being not only highly prejudicial to the interest of the non-Muslim Bengalis but also to the cause of efficiency which should be the sole criterion for all appointments. Take for instance, the technical and special services. They require technical and special knowledge. Although the basic percentage of reservation for Bengali Muslims for direct recruitment to the public services was fixed at 50 per cent., Government realised that for the present, the Muslim community might fail to furnish the necessary number of qualified Muslims for such posts and provided that in case of their inability to do so, qualified non-Muslim candidates could be taken. At the same time, Government provided that no deduction would be made on that ground from the quota fixed for open competition in the subsequent years or in other jobs. This was in June, 1939. All this has now been changed and has given place to the present rule or policy. Sir, the revenues of Bengal belong to Bengal. They are the revenues paid by the people of Bengal by the sweat of their brow: The benefits derived from these revenues should not go to an outsider so long as a Bengali is available having the qualifications laid down by the Public Service Commission. Bengal is for Bengalis, be he a Muslim, a Hindu, Buddhist, Christian, Jain or Parsi and so long as qualified Benaglis are available where is the sense in bringing in qualified outsiders? Further, the present policy means that Government in pursuit of communalism is determined to ignore the problem of unemployment which as you know, Sir, is very acute in Bengal. Sir, by saying all this, I lay myself open to the charge of provincialism. That charge would be false. The truth is that Bengalis are being ousted from other provinces in the matter of getting employments: they have little chance outside the province. The charge of provincialism would be hardly fair inasmuch as by the present policy, Government seek to provide billets to qualified candidates from outside Bengal belonging to a particular community but will give no chance to non-Muslim Bengalis however qualified they may be irrespective of their caste, creed or religion. When the basic percentage was fixed for the Bengali Muslims, it was done without any consideration of their educational advancement. Government are now finding it increasingly difficult to get Muslims for the higher grade services having the requisite

qualifications. A few illustrations will suffice. The post of the Calcutta Police Surgeon, that of the Professor of Physiology, the post of Second Superintendent of Sericulture and also that of Appraiser in Port Trust are typical. For the last post, applications have been called for from the Muslims of Bengal, Bihar and Orissa. As for the rest, several highly qualified non-Muslim Bengalis even with foreign degrees applied and were considered quite fit, but no Bengali Muslims with minimum qualifications were available with the result that none of the former could get the posts because of the present rule of the Government. Sir, can anything be more deplorable? Sir, constituted as the present Legislatures are, there is hardly any chance here. But, Sir, even the darkest cloud has a silver lining and this has revealed itself in an unexpected manner. A recent incident has shown that the leading lights of the Bengal Ministry are mortally afraid of the Muslim students of Bengal and are anxious to placate them. They are intelligent, they are generous and they have proved themselves to be highly patriotic. In his attempt to keep them separate, the Chief Minister went to the length of apologising to them for an incident in the Islamia College compound, thus distinguishing them from non-Muslim students. A determined effort is being persistently made by the leading diehard communalists to change their outlook and make them Pan-Islamic as opposed to nationalistic.

Everything, therefore, depends on the students of Bengal—both non-Moslems and Moslems. If they combine and cry down the present policy, I dare say, it will go the same way as the Holwell Monument. Sir, may I, before I take my seat, be permitted to remind the Hon'ble the Chief Minister of what he publicly stated on 12th June, 1939, after the Government decided on the communal ratio question in the public services of Bengal? Sir, I quote his exact words:—

"I have no prejudice against non-Moslem youths. They have been and will ever be as dear to me as the youths of the Moslem community. It is my earnest desire that they should all equally nestle in my bosom, so that they may equally grow under my affectionate wings to the full height of manhood."

Will the Moslem and non-Moslem students of Bengal take note of these words, and will the Hon'ble the Chief Minister try to justify his present policy in relation to these words, the policy of giving appointment to outsiders while competent Bengali students are available? Or, was his reference to non-Moslem students a mere hoax? Sir, I pause for a reply.

* * *

Mr. PRESIDENT: Motion moved: that this Council do now adjourn.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I did not like to intervene in this debate, but the energetic speech of Mr. Lalit Chandra Das compels me to stand up. I do not wish to be hard on him: I would rather be thoroughly non-violent with him. My friend, Mr. Das, professes to be a votary of non-violence, but when on his legs, he is anything but non-violent with his tongue. I believe communalism is dead or at least it is dying. My friend would, however, like to keep it alive, if he can, but in spite of sporadic attempts to keep it going, communalism is dead, or dying. What is communalism? I have tried to procure a definition. The dictionary will not help us. My feeling is that communalism is like the following. There are many vested interests. They feel that they must preserve those vested interests and must not allow any intruder to have a share. If a new claimant comes in—it is not necessarily a question of Hindu *versus* Moslem—but it is a question between Burra Babus, persons in key situations, in fact, vested interests and intruders. Whenever any third person comes in, the question of efficiency is raised to shut him out.

Now, take the question of Europeans *versus* Indians. Assuming that the Europeans are efficient—though according to Mr. Das they are not so—assuming they are fit in many cases—when you want to eliminate the Europeans, your reasoning has always been this: "We are Indians, we must replace the Europeans irrespective of merit. And you expect the Hindus, Muhammadans, Scheduled Castes and all others to stand under the banner of "nationalism" to eliminate the Europeans even when they are efficient. You want special protection against them and the question of merit is brushed aside. But when the Muhammadans or the Scheduled Castes, for whom my friend professes so much sympathy, would try to enter an office or to get in somewhere, they would say "well, you are not efficient, why think in communal terms? You are communalists". Nationalism, therefore boils down to this. They would say "we are here, we must guard our vested interests, we must not allow intruders to come in". This happy mental pose is nationalism, and if anybody else, however efficient, however competent, tries to share their fortune and says "I am a Scheduled Caste man, I am a Muhammadan, let us share the loaves and fishes of office", you say "this is communalism". Any attempt by Muhammadans to share public advantages with the Hindus is therefore "communalism" and must be put down. I submit that my Hindu friends like Mr. Lalit Chandra Das and others, who are more educated than the Muhammadans, who are more well to do, ought to forego some amount of their preserved privileges for the benefit of the Muhammadans (Mr. LALIT CHANDRA DAS: We have already foregone. You have got 50 per cent.) You have not foregone anything. You flatly opposed it. We have got 50 per cent. in spite

of you. So, the question has never been a question of foregoing. My friend has never allowed himself to agree to that situation, but is now trying to make a virtue of necessity.

Now, my friend has said that he is provincial in his outlook, and he thinks that others also should have this narrow outlook. But what is happening to Bengalee-Hindus in the sister province—the neighbouring Congress province? They are being driven out. It is an open secret that they are being driven out. If you disclose a narrow provincial outlook, the effect would be that Bengalees will be more and more driven out. To encourage the retention of Bengalees, in other provinces, who are mostly Hindus, we should encourage Muhammadans of other provinces to come to Bengal.

Sir, the position of India is not very safe. But for the British, India would be nowhere; and if the British would leave India, we would be absolutely gone. You must not have a provincial outlook. I know Provincial Autonomy will have a tendency to make you separate. You may disclose centrifugal tendencies. So long as the Centre does not sit tight, you will have this centrifugal tendency, a tendency to move away from the Centre and from each other. But in these days, this tendency is prejudicial to the circumstances in India. Let us, therefore, cultivate a more all-India outlook.

Now, with regard to the so-called communalism of the present Ministry, all I know is this that my friend is concerned to find communalism in everything. Take the case of the Bengal Tenancy (Amendment) Act. What was the cry all through? They said "It is a communal measure." Was it honest or was it an utterance merely for catching the imagination of the public? I beg to submit that there was nothing communal in the Bengal Tenancy (Amendment) Act. (Mr. SRISH CHANDRA CHAKRABARTY: Who said that?) It has been repeatedly said so from Mr. Chakrabarty's bench. (Cries of "no", "no" from the Congress Benches.) A perusal of the proceedings of the time will make everything clear. There was a hue and cry in the Assembly and in this House over this. If you read the newspapers of the time, you will find the persistent cry was "communal measure", "communal measure", "communal measure". But go to the country. The Hindus and Muhammadans have welcomed it in spite of the cry of communalism.

Now, take the Bengal Money-lenders Act. A similar cry was raised that it was a "communal measure". You cannot allow money-lenders to kill your people. While the money-lenders were killing the people, the Money-lenders Act was passed to save them. Whatever may be the position, there is nothing communal in the Money-lenders Act. (Interruptions from the Congress Bench.) And these objections and interruptions of my friends from the Congress Bench will show

that they still regard it as a communal measure. (Mr. SRISH CHANDRA CHAKRAVARTY: We do not say it is communal.) It is no use, Mr. Chakravarty saying so from the front bench when he is contradicted by their back benches. The Bengal Money-lenders Act is going to benefit the Hindus more than the Muhammadans. Not that I grudge it. Anybody who is a borrower is going to get the benefit. It benefits the Hindus more than the Muhammadans. The Muhammadans are poor and their debts hardly reach three or four figures. But with regard to Hindus they are well to do and have larger borrowing capacities and their debts run up to thousands or even lakhs of rupees. In fact, those who are richer and have proper accounts will be in a better position to take advantage of this than poorer men who cannot prove the necessary facts.

Take again, the Bengal Agricultural Debtors Act. I have repeatedly heard from many of my educated Hindu friends that this Act was passed as a communal measure by this Ministry. I had to show from the books that it was passed in 1935—long before the present Ministry came into office—and when they saw the book, they were still sceptical about it. I had to repeatedly explain this to a large number of my friends, and yet they would not be inclined to be satisfied.

Mr. LALIT CHANDRA DAS: On a point of order, Sir. Is it relevant?

Khan Bahadur NAZIRUDDIN AHMAD: I think Sir, I am relevant, but he thinks otherwise. To him things are not relevant when the argument pinches him. I appeal to Mr. Lalit Chandra Das not to indulge in wholesale charges of communalism. I think a little real sympathy from that Bench will be appreciated by us.

(The member having now reached his time-limit, resumed his seat.)

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I rise to support the motion of my friend Mr. Das.

The present Government has given no small number of shocks to the interests and susceptibilities of the general population of the province. But none of them have been as regrettable as the one which the recently enunciated policy in regard to the communal reservation of posts in the public services has involved.

Sir, most of us here have certainly not been reconciled to the scheme of distribution of posts among the different communities which was adopted by the Government of Bengal sometime before. Our objections to the scheme have been strengthened to a far greater extent by the way that this scheme is now being worked in practice in the province. On the present occasion, speaking on the adjournment motion, I have to confine myself, Sir, to the question of importing outsiders

to our public services for communal considerations. But incidentally I may mention the fact that when the scheme of communal distribution of posts in the services was formulated, we understood it to mean that in the new recruitment only this proportional distribution would be kept in mind. But for some time past this is not being strictly followed. This is possibly being done with the object of balancing the past recruitment to these offices. But, Sir, this principle of appointment is virtually putting a ban upon the present generation of young men coming from other than certain particular classes and communities.

The policy of importing outsiders if candidates of requisite qualifications are not available in a particular community in this province, has brought out more clearly than anything else the attitude of the present Cabinet towards the general population of the province. Already a great cleavage has been created between the different communities in Bengal by the operation of the system of communal representation both in the Legislature and in the services. This cleavage, Sir, is being further emphasised by the assertion that if candidates of a particular community are not forthcoming from Bengal, their places would rather be filled by outsiders than by candidates of other communities inside the province.

Sir, for some time past the province of Bengal has become already the hunting ground of adventurers from outside. Children of Bengal are shut out as rigidly as possible from all avenues of decent employment in the other provinces in India. But the children of the latter are still using this fair province as a milch cow. It is certainly, Sir, a matter of sorrow that the policy of the Bengal Cabinet will now give a further stimulus to the adventurers from outside to find a lucrative field for exploitation in Bengal.

In this connection, Sir, I may ask the Government of Bengal if they are aware of the fact that the Moslem Governments of no other province are entertaining in any way the candidature of our Moslem brothers from this province. It is good for the Bengal Cabinet to remember that even the late Sir Fazli Hossain, than whom there was no greater champion of Moslem interests, would first give preference to a Punjabi Moslem, and then to a Punjabi of any other community. But he would not think, in filling a post, of any Bengalee-Moslem. It will be to the credit of the present Cabinet if it follows at least in the footsteps of that great statesman of the Punjab.

With these few words, Sir, I support the motion.

Mr. HUMAYUN KABIR: Sir, I must confess that I have a great deal of sympathy with certain aspects of the problem which has been raised by this adjournment motion, but there are other aspects with which I do not find myself in complete agreement. At the very outset,

I should like to say that I am in complete agreement with my friend, Khan Bahadur Naziruddin Ahmad when he says that communalism is a function of the vested interests. There is no such thing as genuine communalism; but if there is genuine communalism anywhere it does good to the community concerned, it does good to the country as well, because it serves the interests of the country. But marked communalism has in view only personal interest, group interest, caste interest or the interest of a particular class or section of the society, and when, therefore, my friend the mover of the resolution condemns the Bengal Ministry as communal, I think that the term has to be defined in a particular way. It is not true to say that the Ministry has been guided by Muslim interests alone; in many cases it has gone against Muslim interests. The Ministry has served the interests of only a group which it represents; it only represents a group of capitalists and a section of landlords in this province. Again, it is not fair to say that this Ministry has no Hindu supporters because there are in the Ministry some persons who belong to the Hindu community. It is a peculiar phenomenon in Bengal to-day that the people are so divided and subdivided amongst themselves that they are doing all sorts of things simultaneously. There are the Congress, the Muslim League, the Hindu Mahasabha, the pro-British, the anti-British, and many other movements in this country; and similarly the public is also pro-Subhas Bose, pro-Gandhi, or pro-Naliniranjan Sarkar at the same time. There is thus a great deal of confusion in Bengal which is natural because we are in a critical position to-day, particularly so far as the Hindu middle class is concerned. They have reached the saturation point so far as the public services are concerned. They are faced with unemployment; they are faced with the dissolution of the old order in which they grew up and the evolution of a new order to which they cannot quickly adapt themselves. Therefore, the Hindu middle class has reacted to this peculiar situation in a distracted manner. That is why we find that there are peculiar phenomena and confusion in this province and we find that the Ministry has played to the interests of the vested interests of the province. If we have any criticism against the Ministry it is not so much against its communalism (because it has not been communal in the real sense of the term) but it is because it has played to the demands of the vested interests.

Take, for instance, the question of education which is closely related to the question of public service. First of all, I should like to make it clear that it is my conviction that in the majority of cases academic qualifications are not a very sure test in appointing the best men. In most administrative posts, it does not matter very much whether a man is a first class M.A. or a second class B.A. A person with requisite academic qualifications may prove himself to be a better officer than one with higher academic qualifications. Perhaps members of this House know that for the British element of the I.C.S. recruited in

England there is no necessity for any academic qualifications whatsoever. Any Englishman who is 21 years old can compete. The question of educational test comes in only when Indians are concerned, but, so far as Englishmen are concerned, any person who is 21 years of age and is prepared to sit for the competitive examination is entitled to enter the I.C.S. To-day in England even the system of competitive examination has been abolished. Though a degree of a British University is required, there is no such emphasis upon any specific academic qualifications as we find here in this country. Again, so far as England France, and Germany are concerned, the best academicians do not go in for any of the administrative posts because of the routine nature of their work. We have seen that a person with some common sense is able to carry on any administrative work. With regard to certain other types of posts, for example, in the Department of Education or technology, this system does not apply. There, academic qualifications are certainly essential. So far as technical and educational appointments are concerned, we should throw them open for competition not only to the people of the province concerned, but to people of all the provinces in India. So far as engineering, industrial and technical posts are concerned, we should go much further than what has been done so far by this Government and throw them open to the best talents in the country as a whole. I would here draw the attention of the House to the example of what Japan has achieved by following this policy. So far as educational and industrial posts were concerned, Japan selected the very best men from any part of the world and offered them service under contract. The Government there stipulated that they must train the local men within a fixed period. If the Bengal Government had followed that policy, I am sure the vast majority of the people of this province would have supported them.

To revert to what I was saying a moment ago, it is not so much the interests of the Muslims which has guided their policy but the interests of a particular section of Muslims and Hindus of Bengal. I shall cite one or two examples. Take the case of the Lady Brabourne College or the Islamia College. Here, we have a colossal wastage of public money. If this money had been spent on scholarships to deserving Muslim students,—and Muslims are known to be backward in education at the present moment,—we could have by this time built up a body of young men who could have held their own against any similar group here or in any of the provinces in India; but instead of that we have the Lady Brabourne College where none but the daughters of well-to-do families in Calcutta can go. Similarly, with regard to the Islamia College—

The Hon'ble Mr. A. K. FAZLUL HUQ: On a point of order, Sir. Are all these remarks relevant? The question is that non-Bengalis should not be appointed.

Mr. HUMAYUN KABIR: Sir, I shall show to the Hon'ble the Chief Minister that what I have been just saying is relevant from his own course of action, and I hope he will then realise the relevancy of this question. He has recently said that he would throw open the professorships of the Islamic College to the best available talent. That itself shows the relevancy of this question to which I have referred a moment ago.

Therefore, Sir, the attack on the Ministry should not be from the communal point of view. So far as the adjournment motion is concerned, the attack on the Ministry has been misdirected. The attack should have been from the point of view of the interests of Bengal as a whole. I have, however, a great deal of sympathy with certain aspects of the Government resolution referred to. The reasons why a larger number of Muslims are to be associated in the administration of the province are two-fold. On the one hand, by giving an administrative post to a person he is given some economic stability, and in this way he helps to bring up the economic level of the community to which he belongs; and secondly, a person of that particular community is expected to look after the interests of that community with greater assiduity and preservance. From both these points of view——(At this stage the member reached his time-limit but was allowed to conclude his speech in a couple of minutes.)—if a Muslim from another province is appointed, it does not help in any way to bring up the economic status of the people of the province. You want to give appointments to a larger number of Muslims of Bengal in order to bring up their economic status and also to foster a spirit of sympathy with the members of their own community which a non-provincial cannot have to the same extent as perhaps a man of the province will have.

Sir, I shall now conclude my speech by saying that it is entirely a mistake to look at this problem from either the Hindu or the Muslim point of view. The Government resolution says that if a job is reserved for a person of one community and if a candidate of that community is not available, it should be thrown open to persons of the other communities of the same province——

(At this stage the member having again reached the extra time-limit resumed his seat.)

Mr. NUR AHMAD: Mr. President, Sir, I rise to oppose this motion. It is really surprising to find that of all persons Mr. Lalit Chandra Das should bring forward this motion before the House. We are all aware of Mr. Das's pronounced views about an All-India Federation. Only very recently, Mr. Das in the course of a statement

refuted the charge of provincialism against the Congress and particularly against the Bengal Congress. In view of that fact, Sir, the very last thing that I could have expected was that a resolution of this nature which bristles with nothing but provincialism and parochialism should be actually moved by a person like Mr. Das. There is, however, an ulterior motive which has prompted Mr. Das to bring it forward before this House, and this consists in attacking the present Ministry on the ground of communalism. Sir, I happen to be the President of an association which has nothing to do with communalism, but it has pained me to find that Mr. Das stigmatises it as communal. I am sorry that this mentality is now filling the minds of the people of Bengal and of the other provinces in India—a mentality which is retarding the progress of India as a whole. It is really very unfortunate that though the Hindus and the Muslims lived together for more than 1,300 years in India in peace, rank communalism is now spreading throughout the length and breadth of this land. Communalism is a thing unknown to Islam. If you read Islamic history, you will find that the Muslims are the most tolerant people on the face of the earth. There might have been proofs occasionally of petty communalism here and there in the past, but on the whole it is admitted by all impartial historians that they were the most tolerant people.

Mr. Das is labouring under a misapprehension. Simply because the present Ministry has a Muslim majority, therefore, he has brought the charge of communalism against it. It is really unfortunate at this critical stage in India's transition from Bureaucracy to Democracy that the communal question should crop up. Mr. Das may grudge the appointment of some Muslims from outside Bengal, but might I request him to read the Duke of Argyle's book, entitled "India under Dalhousie and Canning" and learn therefrom how the Muslims were treated during the earlier days of the British administration in India. I shall cite only one instance here. Lord Canning was recalled from India for having sanctioned the appointment of a Muslim as the Deputy Commissioner of Patna because in those days the appointment of a Muslim to a high administrative post was considered to be a high crime and misdemeanour. Let me say in the words of Hunter what great injustice had been done to the Muslims of India: "We have shut them out from every avenue of life for fifty years of our administration which the Muslims had monopolised."

During the last half of the Company's rule we were all expelled and were deprived of all lucrative posts and were shut out from all walks of life with the result that every walk of administration was monopolised by the Hindus. This was the thing and in the present state of the Mussalmans in India it is a most regrettable thing that because Mussalmans are appointed to some posts Mr. Das will come

before the House with an adjournment motion which is likely to embitter the already embittered feelings at a time when we all want to unite.

With these few words, I oppose the motion of Mr. Das.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. President, Sir, I rise to oppose the adjournment motion first on the ground that the matter under discussion is not at all of urgent public importance, and, secondly, on the ground that in the opinion of the majority of the public the rule complained of is not at all unjust as sought to be made out.

I shall first deal with the first point that it is not urgent——

Mr. PRESIDENT: Order, order. You are not to pass any judgment on the decision of the Chair. I have held that it is of urgent public importance.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I am sorry, Sir.

I then come to the second point. The rule enunciated by the Government is unexceptionable inasmuch as it is not to apply to any particular community. The rule by itself does not apply to any particular community, but by the way it has been explained by my friend Mr. Lalit Chandra Das it appears that he apprehends that it will really apply only to the Mussalmans. Even taking that as correct, I do not think it will be quite right to brand it as communal. To realise the fairness of the rule, I think, Sir, we have to trace the history of the Mussalmans during the time of the Company's rule and the real reason of the downfall of the Muslims in this country—educational downfall and economic downfall—and for this downfall who was responsible? If we trace the history, Sir, I think we will find that the Muslims are not responsible for this deplorable condition in which they have fallen. Sir, I will quote from no less an authority than Mr. W. W. Hunter. He says—

"The truth is, that when the country passed under our rule, the Mussalmans were the superior race, and superior not only in stoutness of heart and strength of arm, but in power of political organization, and in the science of practical government. Yet the Muhammadans are now shut out equally from Government employ and from the higher occupations of non-official life." And why? The reason is also given by Mr. Hunter to a certain extent.

"The truth is, that our system of public instruction, which has awakened the Hindus from the sleep of centuries, and quickened their

inert masses with some of the noble impulses of a nation, is opposed to the traditions, unsuited to the requirements, and hateful to the religion, of the Mussalmans."

"With the Mussalmans the case was altogether different. Before the country passed to us, they were not only the political but the intellectual power in India. They possessed a system of education which, to use the words of the Indian statesman who knows them best, however inferior to that which we have established, was yet by no means to be despised; was capable of affording a high degree of intellectual training and polish; was founded on principles not wholly unsound, though presented in an antiquated form; and which was infinitely superior to any other system of education then existing in India;—a system which secured to them an intellectual as well as a material supremacy, and through the medium of which alone the Hindus could hope to fit themselves for the smallest share of authority in their native country. During the first 75 years of our rule we continued to make use of this system as a means for producing officers to carry out our administration. But meanwhile we had introduced a scheme of Public Instruction of our own; and as soon as it trained up a generation of men on the new plan, we flung aside the old Muhammadan system, and the Mussalman youth found every avenue of public life closed in their faces."

"Meanwhile the Muhammadans have just ground for complaining that the funds which we levy impartially from all classes for State education, are expended on a system exclusively adapted to the Hindus."

That is the reason, Sir, of the downfall of the Mussalmans—educationally and economically. Sir, unless some special efforts are made, it will be impossible to bring back the Mussalmans to their old condition, and it is only just and proper that the wrong already done to the Mussalmans should be righted. Sir, when it is proposed to make an adjustment in order to right the wrong, the cry of communalism is raised and every measure that the Government takes to make an adjustment is branded as communal. Sir, we on this side of the House feel that it is absolutely necessary to make a special effort in order that the wrong done to the Mussalmans is righted and for that reason we moved for reservation of appointments for the Muslims. And in a country of which the Muslim population is about 56 per cent., when 50 per cent. was given, even that was ruthlessly criticised by the other community, by my liberal Hindu friends as communal. Even this 50 per cent. is attempted to be whittled down by bringing a resolution of this nature.

Sir, we know that for reasons not within the control of the Muslims they have not sufficiently qualified men in Bengal just now for technical branches of work. Therefore, the Muslims think that it will be to

their interest if duly qualified Muslims are brought from other countries to look after their interest.

Mr. LALIT CHANDRA DAS: Why Muslism only? Throw it to all, irrespective of castes or creeds.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Because we believe that the Muslim nation is not confined to Bengal alone, nor to India alone—

چین و عرب ہمارا ہندوستان ہمارا
مسلم ہیں ہم وطن ہے سارا جہاں ہمارا

Translation.—

"China and Arabia are ours, India is ours.
We are Muslims, the entire world is our home."

We believe that we Muslims are one nation wherever we be, in whatever part of the world. That is what our national poet Iqbal taught and sang. Sir, we believe also that the interests of the Bengal Muslims will be better served if the Muslims even from outside Bengal are brought, even from outside India, probably from Egypt, if it is found necessary to do so.

Sir, there could be honest criticism if an attempt had been made to lower the qualifications in the case of Muslims; but the rule does not contemplate lowering the qualification. What the rule contemplates is that duly qualified candidates must be brought. If they are not found in Bengal, they are to be brought from other provinces. I do not see, Sir, how our Hindu nationalist friends can object to this, unless they confess that they are narrow-minded provincialists. Sir, we think that by bringing such Muhammadans from other provinces, we will be encouraging and putting hearts into the Bengal Muslims. Sir, this is necessary for rousing the Muslims from the slumber and inertia of years and decades. Our Hindu brothers can afford to be generous and liberal; if they are really national, they must see that the Muslims do not lag behind but go hand in hand with the Hindu community. We do not believe, Sir, in a nationalism which does not look to the interest of the community, nor do we believe in a socialism which does not look to the interest of the individual; similarly, we do not believe in the interest of provincialism if it is an air-tight provincial interest and does not keep a safety valve for the safety of the entire machinery. Sir, both the wheels of the chariot of Indian Nationalism must be in proper working order if the chariot is to make any progress along the path of national prosperity and progress. It is

surprising to see, Sir, the so-called nationalists opposing the system which seeks to put both wheels of the chariot on the same line by adjustment.

With these words, Sir, I oppose the motion.

Mr. KAMINI KUMAR DUTTA: Sir, at the beginning, I had no mind to speak on this resolution at all, as I was not feeling any enthusiasm over this matter. When the world is reshaping itself, when the old Order is crumbling down and a new Order is coming, we are wrangling over the communal ratio for a few jobs. Really, it is regrettable and distressing to find that we are at such a low ebb in our national life that even at this critical juncture in the history of the world we could engage ourselves over these small affairs and not be thinking of the future which is really approaching us—the future which may be bright or may be exceptionally dark. Nobody knows what is awaiting us. Nobody knows what is awaiting the whole world.

I should first of all make the position of the Congress quite clear so far as this question is concerned. As to the claim of any particular community—the Muhammadans or the Scheduled Castes—to have an adequate share in the public services proportionate to their numerical strength, Congress fully supports and endorses that. Congress is not opposed to that proposition in the least, for the ideal of the Congress embraces the whole of India and is not confined to any particular province. So, I must make the position of the Congress Party clear in this matter. In these petty matters, Congress would not mind, Congress Party would not care in the least, but it is only one remark of my friend, Khan Bahadur Muazzamuddin Hosain which has made us of the Congress Party a bit uneasy. If the policy underlying this resolution of the Government is to create a separate nation, a smaller nation out of the great Indian nation, Congress will oppose it with all its strength. If it is the object of any party in India to create a smaller India within the greater India, Congress with all its might and all its power will oppose it. Congress wants one nation in India, one nation to fight for its freedom, and any attempt to create a smaller nation which does not call itself the Indian nation, Congress will be sorry to fight against. Congress attitude has always been this: Hindus, Muhammadans, Jews or any nation, all are Indians. Even those Europeans who would like to call India their land, India will claim them as her sons, and Indian nation as a whole will fight for their proper place in the new Order. So, really it was only that remark of my friend which distressed me, namely, that they are pursuing that matter from that angle of vision. I should again say from the standpoint of the Congress that they should not think of a separate nation, that they should think of one nation and one nation only, and that is the Indian nation.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I had no desire to take part in this debate, but I feel that I would be failing in my duty if I do not speak on one aspect of the question, and it is this——

Point of Order.

The Hon'ble Khwaja Sir NAZIMUDDIN: On a point of order, Sir. If I may interrupt the Rai Bahadur, what is the constitutional position when a party member moves an adjournment motion and the leader of that party says that the fundamental basis of that motion is wrong?

Mr. KAMINI KUMAR DUTTA: May I explain the position, Sir?

Mr. PRESIDENT: Yes.

Mr. KAMINI KUMAR DUTTA: If that motion is considered from a narrow communal point of view, I would not support it. But I find that the policy of the Government against which this motion seeks to register a protest is anti-national and in that view I really support the motion.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, as I was saying, the House will perhaps remember that on more than one occasion several members of the Council, by means of Resolutions, motions, and questions, impressed on the Government the desirability of appointing Bengalis and Bengalis alone to Government service; and if I remember aright it was on one such occasion that the Hon'ble Home Minister in the course of his reply definitely said that Government would try their best, and have been trying their best, to recruit Bengalis for the Police and other Services under the control of the Government of Bengal. It is really distressing to find that some of our friends here cannot look beyond the tip of their noses and are yet trying to do some benefit to members of their own community although they may not be residents of this province. I am sorry I cannot agree with this policy. It is not a question of a Hindu, Muslim or Christian getting some appointments here and there. It is a question of Bengalis as a whole. With the spectre of unemployment stalking this fair province of ours, it is unthinkable that any appointment under the control of this Government should go to a non-Bengali. Sir, it is a question which vitally affects the Bengalis as a race. It is very much to be regretted that the Hon'ble Home Minister's declaration on the floor of this House has not been given effect to by the Government. The Government have now embarked upon a new policy—a policy that is detrimental to the best interest of the Bengalis. Sir, I hope that in view of the feeling that exists in the country, Bengal should be for Bengalis alone and

the Government will see their way to reconsider their decision. It is well known, Sir, that Bengalis suffer very much in the matter of securing jobs in the other provinces. Even the Congress Government were so provincial in their outlook that they did not hesitate to debar Bengalis from getting services or contracts in provinces like Bihar and Assam. In Assam, for instance, no Bengali can acquire land without the permission of the Assam Government. The House will perhaps be astonished to hear that after the earthquake in Bihar in 1935, although plenty of relief was sent from Bengal, yet the Government of Bihar did not engage a substantial—or I can say even a small—number of Bengali contractors to rebuild the houses that had been destroyed by the earthquake.

The Bengali-Bihari question was, as everybody knows, referred to Dr. Rajendra Prasad. Perhaps he was then President of the Indian National Congress. He submitted his recommendations to the Ministers of the Bihar Government, but they did not do anything to implement the recommendations of Dr. Rajendra Prasad. In this view of the case, I think, Bengal has no need to be liberal at the expense of the children of its soil.

The United Provinces Government, as is the case with the other Governments, is no better. Bengalis in the United Provinces, Assam, Madras and other provinces suffer from great disability in the matter of securing jobs and appointments on account of the attitude taken up by those Governments. But it is really surprising that the Government of Bengal, at any rate, the present Ministry which represent the people of Bengal and not the people of the Punjab, or Egypt, should hesitate to give the Bengalis the lead they require——

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: The Bengal Government is more generous.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, my friend over there does not seem to realise the difficulties that the Bengalis are suffering from. He does not think of that but thinks of the Punjab and Egypt and other places outside India. In view of these things, I think, Sir, it will be a wise course to reconsider this question and not to lay themselves open to the criticism that the administration of the Government of Bengal does not look to the interest of the children of the soil. With these words, I support the motion.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, there has been so much in the speech delivered by my friend Mr. Kamini Kumar Dutta which I admire that it pains me much to have to make one or two adverse remarks on his speech. It is not the Bengal Government or for matter

of that any Government that can make or unmake, create or destroy a nation. The Muslim community has existed for the last 1,300 years in spite of any Government in any part of the world.

What my friend, Khan Bahadur Muazzamuddin Hosain wanted to convey to the House was that Islam is a great proletariat and a great democracy; and once a man is a Muslim, he embraces universal brotherhood all over the world. Whether that feeling is right or wrong, correct or incorrect, is beside the point. That is not the feeling which actuated the Bengal Government to come to the decision which has been so adversely criticised by my Congress friends.

Now, Sir, coming to the Government resolution itself, there has been no suggestion that any attempt has been made by the Bengal Government to lower the standard of efficiency in the matter of recruitment to the public services; whether it be Muslim from Bengal or outside Bengal, the essential high standard of efficiency has always been maintained. The objection is that we need not have gone outside Bengal and travelled far afield for talents when Bengal itself is full of talents of various kinds; and when Bengalis can be appointed, there is no reason why non-Bengalis should be appointed. The question therefore resolves itself into this—should non-Bengalis be appointed when Bengalis are available? As an abstract theory, we all agree to this. But as a matter of practice we all violate this rule. What about the Calcutta University—that vast emporium of learning? It is full of non-Bengalis. Even in the domain of Sanskrit, you have got to go outside Bengal for the purpose of importing professors. I would not be surprised if one day you have to get professors of Bengali whose place of domicile may be a thousand miles away from Bengal——

Rai KESHAB CHANDRA BANERJEE Bahadur: Nobody supports it.

The Hon'ble Mr. A. K. FAZLUL HUQ: Rai Bahadur Keshab Chandra Banerjee has got upcountry durwans, while he could keep Bengali durwans.

Rai KESHAB CHANDRA BANERJEE Bahadur: I have none.

The Hon'ble Mr. A. K. FAZLUL HUQ: I have seen upcountry durwans in his house.

Even the Calcutta Corporation employ men from Orissa for cleansing the streets and for waterworks. Why then cavil at the Government of Bengal for having enunciated a rule which, however much it may be objectionable, has been adopted by other employers of labour.

Now, Sir, I will not deliver any speech. But my friends over there are apprehensive that something serious has been done by this rule of the Government of Bengal. I have collected certain figures from the Education Department and I will tell the House what really has been done. During the period from 1st April, 1937, to 31st March, 1940, 10 Muslim appointments have been made in the Bengal Senior Educational Service, Bengal Educational Service, Bengal Junior Educational Service. Out of these, only one appointment was made from outside Bengal and that was the post of a Lecturer of Arabic in the Calcutta Madrassah for which no Muslim could be found in Bengal and no Hindus were available, and so we had to go outside Bengal. During the period up to 1939, two Muslim appointments were made from outside Bengal—one is Professor of English in the Islamia College, who, I may say, is one of the best Professors of English that we have got, and we consider ourselves uncommonly lucky to secure a professor of that calibre. Even the Public Service Commission recommended him very strongly and said that the Bengal Government would be well-advised to secure his services. The only other post is that of the Lecturer in Urdu of the Bethune College. In this case also no Bengali Muslim or Hindu was available. We have, as pointed out by my friend Khan Bahadur Muzzamuddin Hosain, never made the rule applicable to any particular community. In the case of the Hindu community, we have made two appointments from outside. In these posts extremely competent men have been appointed whom we could not have replaced by appointing Bengalis. One is the Professor of Mechanical Engineering and the other is the Principal of the Sibpore Engineering College. Dr. Pandey is the best man of his type in India and we consider ourselves extremely fortunate in having been able to secure his services——

Rai KESHAB CHANDRA BANERJEE Bahadur: Did you advertise these posts?

The Hon'ble Mr. A. K. FAZLUL HUQ: Yes, we advertised and readvertised—we advertised three times—and each time Dr. Pandey topped the list.

In the case of the professorship of Mechanical Engineering, the Hindu gentleman who was appointed is a very brilliant professor and he has been an acquisition to the college. So, there is no spirit of narrow communalism. The rule has been introduced for the purpose of ensuring efficiency and also for maintaining the communal ratio. What is there wrong if there is a rule for reserving certain appointments for certain communities. My friend Mr. Birendra Kishore Roy Chowdhury takes exception to this He said that there should be

no reservation of any kind in the public services. That would be a very sound rule if appointments were honestly made. But we know that jobbery, chicanery, favouritism, nepotism, despotism, prejury and forgery are practised and therefore it is necessary to protect the Muslims and scheduled castes of the province so that they may have a few crumbs from the table, the best of which are going to a particular community which I do not want to name. Therefore, it is necessary that some kind of reservation should be made. As a matter of fact, we have laid down that as soon as we find that those communities for whom reservation has been made have attained a certain amount of parity which the other communities, this rule would be withdrawn—— (Here the honourable Chief Minister reached his time-limit but was allowed to conclude his speech.)

Therefore, Sir, I submit that although the House has discussed communalism to its heart's content, it is time to cry halt. There is nothing wrong in what the Bengal Government has done. Bengal Government has not forgotten the claims of other communities. Only in the case of a few appointments which have been reserved for Moslems we maintain the standard of efficiency all right, but we try to recruit the best men, if the standard which we have set up is not attained by any candidate from Bengal. I submit, Sir, that this is a rule which ought to prevail for some time. When we find that it really entails hardship on anybody, we will be the first to revoke the rule. We do not want to make the rule unalterable for all time. At the beginning in order to encourage those who are in the background to come forward we have made some sort of reservation, but we have not used this rule mercilessly without exception. It is in only just two or three instances. Mr. Lalit Chandra Das himself has admitted that in the case of the Lecturer in Urdu or Arabic we had no other alternative. There only remained the cases of Professor of English and Professor of Geography—two cases only in the course of nearly three years and a half.

Rai KESHAB CHANDRA BANERJEE Bahadur: No other Provincial Government has adopted such rule.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I think the Government of Bengal are grateful to Mr. Lalit Chandra Das for unconsciously helping them now and then. I may state that he is the champion of the Mahasabhites in this House, and whenever the attack does not develop in the other House, it is taken up by him in this House. On this particular occasion, Sir, a similar motion was going to be moved in the other House but the Krishak Praja Party, the henchmen of the Congress, refused to support it. So, they very wisely withdrew it. (Cries of "no", "no", question, from Congress benches.) Well, I am giving you the inner history of that motion. Therefore,

the Government never got an opportunity to explain the position, but those who wanted to find any excuse to damn this Government took it up and started holding public meetings condemning this Government. But Mr. Lalit Chandra Das by bringing this motion in this House has certainly helped us to explain the exact position. I will read out to you the decisions of Government on this question. That alone will remove a lot of misunderstanding. The first decision is:

"In the case of those services for which the recruitment rules prescribe that recruitment is reserved for candidates who are natives of or are permanently domiciled in Bengal and make no provision for relaxation when no suitable Bengalee candidate of the community for which the appointment is reserved is available, the appointment shall be thrown open to Bengalee candidates of other communities"; that is to say, that in all those services where the *sine qua non* is the possession of qualification of being either a native of Bengal or domiciled in Bengal, in those cases no preference is given to the Muslims of any other province, and if the Muslims of Bengal are not available, then those services will be thrown open to the non-Muslims of Bengal. And this applies to practically all the important services and the major portion of the recruitments in Bengal."

I will now read out rule 2—

"In the case of the undermentioned services in which the recruitment rules provide for the relaxation of domiciliary qualification in exceptional circumstances or merely state that preference is to be given to candidates who are natives of or are permanently domiciled in Bengal, the provisions of section 4 of the Bengal Services Recruitment (Communal Ratio) Rules, 1940, shall override the domiciliary consideration."

That is, if the appointment is reserved for a candidate of a certain community and no suitable Bengalee candidate of that community is available, attempts will be made to recruit a candidate of that community from outside Bengal, before the appointment is thrown open to candidates of other communities. Now, Sir, the class of cases in which this is likely to occur is very very few. Only in a limited number of cases, this rule will come into effect. As has already been pointed out by the Hon'ble Chief Minister, in the three and a half years that we have been here, only very few appointments have had to be given to Muslims of other provinces, particularly in cases where non-Muslims of Bengal could have been appointed. That is to say, the Chief Minister has shown that in certain cases neither Muslims of Bengal nor non-Muslims of Bengal could have been appointed. The majority of cases where Muslims of other provinces have been appointed are of that type. It is only in one or two cases where non-Muslims of Bengal were available but preference had been given to Muslims of other provinces. Now, the Chief Minister has already shown that in

the University of Calcutta this has been done, but we have never heard any criticism. In the Government of Bengal as far as stenographers are concerned—I do not know how—we have recruited Madrassi Hindus, although I am certain that there were available Bengalee Hindus who could have fulfilled the minimum qualification. But on the ground of most efficient men, I believe, Madrassi Hindus have been appointed. There are stenographers in Government service belonging to Madras who are not domiciled in this province. I am sure M.L.C.'s knew about this, but no criticism has ever been made.

Mr. LALIT CHANDRA DAS: Will you explain how section 4 of the rules overrides domiciliary qualification?

The Hon'ble Khwaja Sir NAZIMUDDIN: We have given reasons. There are two things—relaxation of domiciliary conditions and preference to Muslim community, and we decided that in those cases where relaxation of domiciliary conditions were possible, there we have given preference to the Muslim community.

Mr. LALIT CHANDRA DAS: Will you be good enough to read out section 4?

The Hon'ble Khwaja Sir NAZIMUDDIN: Section 4 is absolutely clear. It does not limit the choice to the Muslims of Bengal. If the honourable member can show it, I will say that Government has made a mistake. There is no wording there to show that it was confined to the Muslims of Bengal.

Now, Sir, I ask, has the honourable member got any legs to stand on after the speech of his leader? To-day I heard him say "Mother Bengal"; another day I heard him say "Mother India". Which is the mother, I would like to know. How could you have two mothers at the same time? When it suits the honourable member, he is a nationalist and an Indian; when it suits him again, he is a provincialist and a Bengalee; but every time "heads I win, tails you lose." This is how the principles are employed by the honourable member who has moved this motion. You cannot have it both ways. If you are a nationalist, if you are an Indian, how can you debar an Indian from getting service here? Have you ever heard of a Scotsman being refused an appointment in England because he is a Scotsman? It would be rediculous for anybody to suggest a thing like this. Yet you have heard here that an Indian cannot hold an appointment in a province of India. I cannot understand how anybody can put forward a claim of that kind. Try and do it if you can by some other means, but for a member of the Legislature to get up, and specially a member who is the loudest with slogans of nationalism, to claim that an Indian should be debarred in India from holding an appointment, is an absurd proposition which we can only hear from the members of the other

side. This Government recommended this rule up to a limit, but we consider also that in the interests of Bengal itself apart from other considerations, it will be fatal to have such rigid rules that under no circumstances you should have Indians from other provinces eligible for appointment in Bengal. There are Bengalees in Bihar who have been appointed in larger numbers than their numbers justify in that province. Recently, Sir, six appointments were made for Medical Service in the province of Bihar out of which four went to Bengali Hindus, though on a proportional basis they were not justified considering the number of Bengali Hindus domiciled there. The Biharees could have claimed that it was an undue representation given to the Bengalis. Similarly, in provinces other than Bengal, there are Bengali contractors and others who are being employed in those provinces. Retaliatory measures can be taken by those provinces if we go on in that fashion. These are matters which have got to be taken into consideration before honourable members start this agitation. It is true, it is a very helpful agitation to down the Muslim community and to condemn the present Government and thereby get a lot of support, lot of cheering, and perhaps a lot of votes when you stand for election; but I am sure that in the larger interests of Bengal this is not the thing which we should go in for.

Sir, I think I have been able to make out that these recruitment rules have been in existence from before this Government took office. Actually, no fundamental change has been made in those recruitment rules. Relaxations were permissible in certain services where there were no conditions whatsoever of domicile. Just in the same way, the University of Calcutta thought fit to appoint lecturers or professors of Sanskrit from other provinces. When the Calcutta University can think of appointing a German Professor for Mathematics, surely it cannot be argued that you could not find a Bengalee to be a Professor of Mathematics, and so had to recruit a professor from Germany for this purpose. You forgot India and you went out of India and brought a German out here to be a professor of the University. Why? Because you thought that it was necessary in the interests of the students. Similarly, what is wrong in it if it is decided that certain posts should be held by Muslims in this province, and if when we find that suitable Muslims are not available here, why suitable Muslims from other provinces in India—not from Egypt as my friend the Rai Bahadur said (Rai KESHAB CHANDRA BANERJEE Bahadur: It was not I; it was Khan Bahadur Saiyed Muazzamuddin who suggested it)—I do not see any reason why suitable Indian Muslims from other provinces should be debarred from Government appointment. I can understand this opposition if the honourable members over there had accepted the Muslim League scheme and said that Bengal was going to be an independent province. In that case, it would have been quite legitimate to say that "you cannot have any Muslim from other provinces——"

Mr. LALIT CHANDRA DAS: The League is for *Pakisthan.*

The Hon'ble Khwaja Sir NAZIMUDDIN: I am not advocating the cause of *Pakisthan* and the Muslim League has not gone in for *Pakisthan* either. If you had recognised the principle that Bengal is for Bengalis, in that case it would have been right for this adjournment motion to be moved. But on the contrary, you want India to be one country for the Indians irrespective of caste, creed or colour—whether they come from Bengal, Punjab, Madras or Bihar. So, I do not see how honourable members can stand up here and argue in this fashion. It is absolutely illogical. I maintain that the honourable member who moved this motion has done a real service to the Government by introducing this motion, because it has been the subject-matter of considerable agitation in the Press and on the platforms outside this House. I hope the country will now realise that nothing extraordinary has been done and that the number of appointments that go outside the province of Bengal is extremely limited. As a matter of fact, throughout the whole period this rule will perhaps be enforced once or twice, and yet there has been such a great hue and cry—as if the entire non-Muslim Bengalis have been debarred from appointments and an impression has been sought to be created that Bengali young men have been debarred from Government service. It is an absolutely erroneous idea and merely helps to create public agitation on communal lines which my friends over there know best how to exploit.

Maulana MUHAMMAD AKRAM KHAN: মাননীয় সভাপতি, আজ আমি আলোচ্য প্রস্তাব সম্বন্ধে মতামত প্রকাশ করবার জন্য উঠি নাই—উঠেছি, নিজের জ্ঞান বিশ্বাস মতে ললিত বাবুর একটা ভ্রান্ত ধারণা সংশোধন করে দেওয়ার জন্য। তিনি আক্রমণমূলক ভাষায় বলেছেন "পাকিস্থানী"। কিন্তু এই বিশেষণ দ্বারা লীগপন্থীদিগকে আক্রমণ করবার পূর্ব্বে তাঁহার জানা উচিৎ ছিল যে উত্তর-পশ্চিম প্রদেশের কতিপয় মুসলমানের পাকিস্থান পরিকল্পনায় আর মোছলেম লীগের গৃহীত প্রস্তাবে আকাশ পাতাল পার্থক্য বিদ্যমান। পাকিস্থান পরিকল্পনায় প—অর্থে পাঞ্জাব, আ—অর্থে আফগানিস্থান, ক—অর্থে কাশ্মির ইত্যাদি। অর্থাৎ, উত্তর পাঞ্জাব, সীমান্ত প্রদেশ, কাশ্মির, বেলুচিস্থান ও আফগানিস্থান ইত্যাদির একত্রে সমাবেশ এবং ভারতের অন্য সব প্রদেশগুলিকে উপেক্ষা করে একটা নতুন মোছলেম তাঁরা গঠন কোর্ত্তে চান। আর মোছলেম লীগের পরিকল্পনায় ভারতের বর্ত্তমান ভৌগলিক প্রদেশগুলিকে সাম্প্রদায়িক এলাকা অনুসারে নূতন করে গঠন করার প্রস্তাব করা হয়েছে মাত্র—পাকিস্থান পরিকল্পনা এ প্রস্তাবের পরিপন্থী। এ সত্বেও ও তাঁরা যদি মুসলমানকে অন্যায়ভাবে পাকিস্থানী বলিয়া গাল দিতে থাকেন তাহলে প্রত্যুত্তরে মুসলমানরাও তাঁহাদিগকে না-পাকিস্থান বলে সম্বোধন কর্ত্তে বাধ্য হবে।

ললিত বাবুর আক্রমণের আর একটা বিশেষণ হচ্ছে—Pan-Islamic. পাশ্চাত্য গুরুদের দেওয়া মন্ত্র অনুসারে তিনি হয়তঃ মনে করবেন, পান-ইস্‌লামিক বলে তিনি একটা বড় রকমের গাল মুছলমানদেরকে দিয়ে ফেলেছেন, কিন্তু তাঁর খুব ভাল করে জানা উচিৎ যে, Pan-Islamic is nothing but true Islamism. ইছলাম ধর্ম্মের সব ধ্যাণ-ধারণার সমস্ত কর্ম্মসাধনার সকল ত্যাগ-তপস্যার কেন্দ্রীভূত প্রাণ-বস্তুই হইতেছে অখণ্ড বিশ্বমোসলেম ভ্রাতৃত্বের এই জ্বলন্ত ও জীবন্ত অনুভতি—জগতের মুছলমান মাত্রেই পরস্পরের ভাই। মুসলমান যতদিন মুসলমান থাকবে, কোরাণে তার বিশ্বাস যতদিন অটুট থাকবে, ততদিন তাকে বিশ্বাস ও স্বীকার কোরতে হবে যে—ইন্নামাল্‌-মোমেনুনা এখঅতুন। নিশ্চয় এ ছাড়া আর কিছু হতে পারে না, যে, জগতের সমস্ত মুসলমান এক অন্যের ভাই। মক্কার মুসলমানরা হেজরত করে যখন মদিনায় যান, ভ্রাতৃত্বের এই অমোঘ স্বর্গীয় নির্দ্দেশ অনুসারে মদিনার মুসলমান তখন নিজেদের অর্দ্ধেক সম্পত্তি পর্য্যন্ত তাঁদের ভাগ করে দেন। সুতরাং Pan-Islamism জিনিষটা বস্তুতঃ গালাগালির বিষয় নয়। ঠিক যেমন ভারতের সকল প্রদেশের সমস্ত হিন্দুই পরস্পরকে ভাই বলে বিশ্বাস করে থাকেন। এখানকার হিন্দু যদি সেরূপ বিশ্বাস না করেন তাহলে আমি বলবো—হিন্দু ধর্ম্মের শিক্ষা তাঁদের মধ্যে শিথিল হয়ে গিয়েছে, হিন্দুদের আদর্শ হতে তাঁরা স্খলিত হয়ে পড়েছেন। তাঁদের এই জ্ঞানের অনুসরণ মুসলেম জাতি করতে পারে না। কোরলে জাতি হিসাবে তাঁরা বাঁচতে পারে না।

আমার বন্ধু কামিনী বাবুর কাছে এখন আমি একটা কথা নিবেদন করে ক্ষান্ত হতে চাই। তিনি নিজের বক্তৃতায় যে ইংরাজী "নেশন্" শব্দ ব্যবহার করেছেন, তার প্রকৃত সংজ্ঞা কি? বানান করে যে দু একখানা পুঁথিপুস্তক পড়েছি, তাতে দেখেছি—নানা মুনীর নানা মত। অধিকাংশের মতে নেশন্ গঠিত হয় ধর্ম্ম, সংস্কৃতি ও ঐতিহ্যের উপকরণ উপাদানের দ্বারা। ধর্ম্মে, ঐতিহ্যে ও সংস্কৃতিতে মুছলমান ভারতের অ-মুছলমান হতে সম্পূর্ণ স্বতন্ত্র। সুতরাং মছলমানদিগের একটা separate nation create করার কোন প্রশ্নই এখানে উঠ্‌তে পারে না, separate nation is already there তবে ভারতের স্বতন্ত্র স্বতন্ত্র nationএর অস্তিত্ব বিদ্যমান আছে বোলে যে দেশে বৃহত্তর স্বার্থ সম্বন্ধে সর্ব্বদাই তারা কলহশীল ও আত্মবিস্মৃত হোয়ে থাক্‌বে, দেশের মঙ্গল ও মুক্তি সম্বন্ধে উদাসীন হোয়ে চোল্‌বে,—তার কোন কারণ নাই। কাল কাগজে পোড়লাম —আমেরিকার সমস্ত নেশন এক যোগে এই অভিমত প্রকাশ কোরেছে। সুতরাং এটা আমার মতে শব্দের লড়াই বা অনর্থক ন্যায়ের কচ্‌কচি ছাড়া আর কিছুই নয়। এ কচ্‌কচির প্রশ্রয় দিয়ে বাস্তব সত্যকে অস্বীকার করা হোচ্ছে মাত্র এবং আমার মতে এইটাই হোচ্ছে আমাদের দেশের সর্ব্বপ্রধান অভিশাপ। যা হোক কামিনী বাবুকে জিজ্ঞাসা করি—নেশন্ কথার বাংলা মানে কি? জাতি? কিন্তু সংস্কৃত জাতি তো এ ক্ষেত্রে অচল, দলিল পত্রে দেখি—একদিকে জাতি মুসলমান অন্য দিকে জাতি কায়স্থ, জাতি নমশূদ্র ইত্যাদি। তারপর নারী জাতি, গো জাতি, মানব জাতি, ইত্যাদি।

Mr. LALIT CHANDRA DAS: Mr. President, Sir, it has not been my lot to hear a more half-hearted speech from the mouth of the Hon'ble the Home Minister than what I have heard to-day. The

reason is not far to seek. He has a very weak case to defend. He knew that I was protesting against men from outside Bengal being appointed to the services in Bengal when competent Bengalis were available. The Home Minister did not agree with me when I had proposed on a previous occasion that all Indians possessing very high efficiency should be appointed and that all posts should be thrown open to the best candidates. To this, neither the Home Minister nor the Chief Minister would agree. When the question of settlement of the communal ratio in the public service came up, that was the real ground on which the greatest opposition was offered. But in spite of that, certain decisions were arrived at and the communal ratio in the public service was settled, that for the Muhammadans having been fixed at 50 per cent. Now, that is a thing with which it is not for the present motion to quarrel; this motion has been brought forward because the present policy of the Government raises a peculiar communal issue. Sir, on a previous occasion Government wanted to shelve matters when pressed by us on account of the prevailing war conditions, but in spite of these conditions prevailing in the country at the present moment, Government have been able to formulate this policy and to give effect to it. Government have been able to call a session of this Legislature so that in spite of the war conditions now prevailing, Government may get through the Legislatures such contentious and controversial measures as the Calcutta Municipal (Amendment) Bill and the Bengal Secondary Education Bill. All these are highly objectionable.

Sir, so far as this policy of recruitment of Muslims from outside Bengal is concerned, it has raised a very important issue. The issue is not one of providing the really best Indians with posts, but the issue is whether Government should go outside and find out men of a particular community to give them jobs. They intend to do so not with the object of finding out the best Indians; if it had been the case, they must make the best endeavour to select the best men. If no Hindu candidate is available, Government should try to find out a competent Muslim; but if no suitable candidate of the province is available, either Hindu or Muslim or one of any other community, then Government should go outside and throw open the vacancy to the best Indian candidate available, irrespective of caste, creed or colour. But that has not been done. The Hon'ble the Home Minister knows that when suitable Muslims are not available, competent Bengalis of any other community will be available but instead of throwing open the vacancies to such non-Muslims of Bengal, it is his policy now to go outside Bengal and select non-Bengali Muslims in preference to competent non-Muslims of Bengal. There is the rub. The Hon'ble the Chief Minister has quoted certain figures. These figures show that attempts had been made to bring in candidates from outside only when no suitable candidate of a particular community or of any other community was

available. That is a sound proposition to which I have no objection; but what has now been proposed is highly objectionable. Instead of selecting the best Bengali candidate available for a vacancy, Government now propose to go outside Bengal in order to find out candidates of the particular community for which the post was ear-marked. The Hon'ble Mr. Fazlul Huq's defence of the present rule by the doctrine of Muslim brotherhood is unworthy of the Chief Minister of Bengal. Sir, I ask the Hon'ble the Home Minister to explain rule 4 of the Bengal Public Services (Communal Ratio) Rules, 1940. The Home Minister instead of reading out that section tried to evade it by saying that I must point out to him the rule which debars him from going beyond Bengal in search of Muslim candidates. I say, Sir, that I point out to him the Government Communiqué of June, 1939, which I would advise him to read carefully. By that communiqué the communal ratio was fixed between the different communities of Bengal with respect to the public services in Bengal. A certain ratio was fixed for the Muslims of Bengal but no ratio was fixed for Muslims outside Bengal. I think to this statement of mine, the Home Minister cannot at all take any exception. Section 4 of the Public Services (Communal Ratio) Rules referred to the decisions arrived at in June, 1939. If the decision of June, 1939, actually settled the ratio between Muslim Bengal and non-Muslim Bengal, how is it that section 4 of the Public Services (Communal Ratio) Rules can really apply to the people outside Bengal? Let the Hon'ble the Home Minister answer my query. I say, it is illegal; I say, it is unfair, to say the least of it, to misread section 4 and extend its operations beyond Bengal.

Now, Sir, so far as my other friends, Khan Bahadur Naziruddin Ahmad and Prof. Kabir are concerned, I would say one word or two. My friend, the Khan Bahadur, travelled beyond his points. He did not speak anything on the subject at all. What he actually spoke was about the Europeans. If he had cared to read the communiqué of June, 1939, he would find that in the first paragraph of that communiqué it has been laid down that excepting services where Europeans and others are eligible, the rule is made applicable to Muslims and non-Muslims of Bengal in relation to public services in Bengal, so that his reference to Europeans was uncalled for and superfluous and was not applicable to the facts of the present case.

Now, Sir, with respect to Prof. Kabir, it appears to me that Prof. Kabir did not actually read the wordings of the present policy enunciated by Government. He was saying that the best Indian should be brought in in the field of education and in the other technical services under the Government. To that proposition nobody demurs. We have always agreed, and even now agree, that as a matter of fact in respect of all appointments, whether in the Department of Finance or Commerce or Engineering or Medical, all these posts should be

thrown open to the best Indians available according to their qualifications, but the objection came from Muslim Bengal. So far as that objection was concerned, they decided it by the communiqué of June, 1939. So, I submit, Sir, that so far as the argument of Prof. Kabir is concerned, we are in agreement with him that the best available Indian should be brought in for every service. But the Government of Bengal objected to this and settled first the communal ratio and secondly the present rule which is highly objectionable.

With these words, Sir, I resume my seat.

Mr. PRESIDENT: The Hon'ble Home Minister has his right of reply. Will he exercise that right?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, Sir,

Mr. PRESIDENT: The question before the House is: that this Council do now adjourn.

(The motion was negatived.)

Mr. PRESIDENT: Order, order. The Council stands adjourned till 2-15 p.m. on Tuesday next.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 30th July, 1940.

Members Absent.

The following members were absent from the meeting held on the 29th July, 1940:—

(1) Mr. Narendra Chandra Datta.

(2) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(3) Khan Bahadur Syed Muhammad Ghaziul Huq.

(4) Alhaj Khan Bahadur Shaikh Muhammad Jan.

(5) Khan Bahadur Muhammad Asaf Khan.

(6) Rai Bahadur Brojendra Mohan Maitra.

(7) Dr. Radha Kumud Mookerji.

(8) Khan Bahadur M. Shamsuzzoha.

B. G. Press—1940-41—6600A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 30th July, 1940, at 2-15 p.m. being the third day of the Second Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Extension of the service of the Head Clerk of the Public Health Department.

14. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department, kindly state—

(a) if the Head Clerk of the Public Health Department is on extension; and

(b) if he had been given any extension before; if so, for what period?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, Minister in charge of the Public Health and Local Self-Government Department): The Head Clerk attained the age of 55 years on 15th October, 1938. Under Fundamental Rule 56(b), he was not called upon to retire on that date as the exigencies of public service necessitated his retention. He was retained at first for one year from 15th October, 1938; then for six months from 15th October, 1939; and finally for one year again from 15th April, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state what was the special exigency of public service for which he was given extension for three times?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As the honourable member is probably aware, ministerial officers do not actually attain the age of superannuation at the age of 55. Their age of retirement under the Fundamental Rules is 60 years, but Government retain the right of asking them to retire before 60 and after 55. Government

considered this ministerial officer to be especially useful to the department and naturally they did not like to ask him to retire at the age of 55.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Government aware that a resolution was passed in the Legislature that there should be compulsory retirement on completion of thirty years' service?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That resolution has not yet been accepted by Government.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Government aware that that is a decision of the Legislature to which the Ministers are responsible?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I believe that was the opinion of a large section of the Legislature.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Was it not the opinion of the majority of the Legislature?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, that matter is under the consideration of Government and they have not been able to come to a final decision. Government have to consider the cases of clerks who would be adversely affected by this decision and their number is large. Government could not come to a decision without taking all aspects of the question into consideration and the repercussions which they may have.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state whether the question of compulsory retirement comes in at the age of 55 and not at the age of 60, as stated by the Hon'ble Minister, under the ordinary rules?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Ordinarily, a ministerial officer has the right to serve upto the age of 60 and it is only in special circumstances that Government can call upon him to retire at the age of 55.

Mr. HUMAYUN KABIR: Is it open to the Hon'ble Minister to say that a decision of the Legislature is not binding on the Ministers?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have never said that.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state whether if a resolution is carried in the Legislature, that is not an expression of opinion of the House binding on the Ministers?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have just said that the whole question is under examination and consideration of Government. Government have not yet come to a decision one way or the other.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state when this resolution was passed?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I ask for notice.

Mr. HUMAYUN KABIR: Is it not a fact that the resolution was passed about two years ago?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, my memory fails me here.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: It is stated in the answer that the extension has been given finally for one year. Are we to take it that this is the last extension granted?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Appointment of Police Surgeon for Calcutta.

15. Rai Bahadur BROJENDRA MOHAN MAITRA: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) whether a notice was issued demanding certain qualifications as essential for the post of the Police Surgeon, Calcutta, on the requisition of the Public Service Commission;

(*b*) whether several applications were received from candidates holding high academic qualifications including some F.R.C.S., but there was not a single application from any qualified Muhammadan;

(*c*) whether the Public Service Commission recommended the appointment of the best candidate who was not a Muhammadan and whether this recommendation was vetoed by the Government;

(*d*) whether the Government subsequently lowered the qualifications and declared three years' House Surgeon's experience at Calcutta Medical College as sufficient qualification for the very responsible post of Police Surgeon for Calcutta with a view to get in a Muhammadan candidate for the post; if not, why was the qualification lowered;

(*e*) whether students who have just passed the Final M.B. Examination of the Medical College are taken in as House Surgeons generally; and

(*f*) whether Government will give up communal considerations and will appoint the candidate recommended as the best available by the Public Service Commission?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) Yes, an advertisement was issued by the Public Service Commission inviting applications for the post.

(*b*) Yes. Two of the applicants were Muslims whom the Public Service Commission did not consider suitable.

(*c*), (*d*) and (*f*) The Public Service Commission considered three candidates to be suitable and recommended one of them for appointment. It was found, however, that the advertisement which had been issued was defective in certain respects and it was decided that the post should be advertised again. The terms on which the post will be re-advertised are under the consideration of Government and a revised advertisement will issue as soon as the terms have been settled.

(*e*) Yes, junior House Surgeons are recruited from students who have just passed the final M.B. Examination.

Dr. RADHA KUMUD MOOKERJI: May I have a definite answer to question under paragraph (*f*) because the answer given is not clear?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the matter is under consideration. As I have stated, the terms of the advertisement have not yet been settled.

Dr. RADHA KUMUD MOOKERJI: Paragraph (*f*) raises the question of principle for the appointment and the Government should give a straightforward answer to the very definite question that has been put here.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I maintain that the answer that the matter is still under consideration and that Government has not come to a decision as to the terms of advertisement, is a quite straightforward answer.

Dr. RADHA KUMUD MOOKERJI: Am I to understand that the Government are still considering whether communal considerations should or should not prevail in the matter affecting the public health of Bengal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not know what makes the honourable member infer that communal considerations will still weigh with them.

Dr. RADHA KUMUD MOOKERJI: My point is very clearly stated in paragraph (*f*). The public at large wants to be assured whether Government will be actuated by communal considerations in filling up these posts which affect the public health of the whole province and the best men available should be taken.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I do not know what makes the honourable member infer that Government are out to do something which is not enjoined by the rules.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state who was the person recommended by the Public Service Commission for this appointment?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I ask for notice.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if it is a fact that the person recommended by the Public Service Commission has foreign qualifications also and that he is a Hindu?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Mr. LALIT CHANDRA DAS: Is he an F. R. C. S.?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: He has got oreign qualifications, this much I can say.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what was the defect in the notice for which it had to be e-advertised?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Mr. LALIT CHANDRA DAS: Arising out of paragraphs (*c*), (*d*), (*e*) and (*f*), will the Hon'ble Minister be pleased to state if it is the intention of Government to split up this post of the Police Surgeon —one for Junior House Surgeon and another for Lecturer?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Police Surgeon does not do the work of a Lecturer.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if it is the intention of Government to split up the duties of the Police Surgeon?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The duties of the Police Surgeon are confined to hospitals.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if the post of the Police Surgeon is going to be split up into two, i.e., it is going to more than one candidate?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I cannot enlighten the honourable member definitely on that point; but Government have no such intenion at present.

Compensatory allowance for the Assistant Surgeons employed in the Public Health Department.

16. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department kindly state—

(*a*) whether the Assistant Surgeons employed in the Public Health Department are debarred from private practice;

(*b*) if the reply to part (*a*) be in the affirmative, whether they are allowed any compensatory allowance on that ground;

(*c*) whether members of the Bengal Medical Service who are debarred from private practice are allowed any allowance;

(*d*) if the reply to part (*c*) be in the affirmative, why the Assistant Surgeons of the Public Health Department are not also allowed similar allowance?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) Yes.

(*b*) No.

(*c*) Members of the Bengal Medical Service who are debarred from private practice are generally allowed compensatory allowance in lieu thereof.

(*d*) The matter is receiving my consideration.

Abolition of the Civil Court of Bajitpur, Mymensingh.

17. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Judicial Department kindly state—

(*a*) if there is any proposal for abolition of the Civil Court of Bajitpur (district Mymensingh); and

(*b*) if the Government is aware that such abolition will cause great inconvenience to the poverty-stricken tenants of the *bhati* area?

MINISTER in charge of the JUDICIAL DEPARTMENT (the Hon'ble Nawab Musharruff Hossain, Khan Bahadur): (*a*) Yes; it is under consideration.

(*b*) Does not arise.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state how the question of the abolition of the civil court at Bajitpur arose?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: On the representation of the people there.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that there was an agitation against its abolition as well?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Yes.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Has the matter been since enquired into by the District Judge?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Not yet.

Fixation of the price of raw jute.

18. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state the reasons why the maximum price of raw jute was fixed at Rs.90 per bale of 400 pounds net weight and why the maximum price of hessians was fixed at Rs.21 for 100 yards of hessian cloth, forty inches wide and of eight ounces net weight per yard?

(*b*) Is it not a fact that such fixing of maximum prices has affected adversely the interests of growers of jute? What are the reasons for a contrary view?

(*c*) Is it a fact that in fixing the maximum price of raw jute, the Government looked solely to the interests of the jute mill-owners and manufacturers of jute products?

(*d*) Of the jute mill-owners in Bengal, how many are indigenous and how many foreign?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) The maximum prices quoted were "futures" prices and not prices of actual commodities. The reason for fixing these prices was to prevent speculators from forcing up prices to levels at which the danger of loss of foreign markets would have been so great as to be a menace to the whole industry including the growers.

(*b*) No. At no time since the promulgation of the Ordinance has there been any possibility of the maximum prices being reached and they have, in fact, been entirely inoperative. The theory that prices should be permitted to rise as high as the speculators can force them up is fallacious in view of the facts indicated in (*a*) above. An immediate and temporary gain cannot offset a permanent injury to the industry.

(*c*) Certainly not.

(*d*) The total number of owners or managing agents is 34, of whom 18 are indigenous.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Will the Hon'ble Minister be pleased to state whether by fixing the "futures" prices of jute in the *fatka* market Government are legalising that speculative market?

The Hon'ble Mr. TAMIZUDDIN KHAN: That is a matter of opinion, Sir.

Completion of work of the Agricultural Farm at Chittagong.

19. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state when the work of the proposed Agricultural Farm at Chittagong would be completed?

(*b*) Is it a fact that about Rs. 30,000 and odd have already been spent on this project? Is it also a fact that the work has been stopped all on a sudden?

(*c*) If so, will the Hon'ble Minister be pleased to state why the work has been stopped?

(*d*) Is it a fact that the necessary sum of Rs. 50,000 and odd was provided in the last year's budget estimates and has again been provided in the budget estimates for 1940-41 and that the same has been authenticated by His Excellency the Governor of Bengal? If so, why the work is being delayed so much and the sum is not being spent to complete the project?

(*e*) Are the Government aware that there is an insistent demand for the proposed Agricultural Farm at Chittagong?

The Hon'ble Mr. TAMIZUDDIN KHAN: (*a*) The construction of buildings for the District Agricultural Farm at Chittagong is expected to be finished by August next and the farm will be started as soon as the buildings and lay-out are complete.

(*b*) to (*d*) A sum of Rs. 57,502 was provided in the Civil Works Budget for 1939-40 and the unspent balance of this amount was re-allotted in the current year's budget for the work which was in progress. I am not aware of the exact amount spent so far on the scheme. The work was temporarily suspended in March last in deference to the opinion of some members of the Legislature in regard to the utility of District Agricultural Farms in general but it was resumed in April and has since been proceeding with reasonable expedition.

(*e*) Yes.

Loans to the Agriculturists.

***21. Rai Bahadur MANMATHA NATH BOSE:** Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) the total amount of agricultural loans advanced to agriculturists in the districts of Bankura and Midnapore in 1935-36, 1936-37, 1937-38, 1938-39, 1939-40, year by year;

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*Question No. 20 was not put due to the absence of the Hon'ble Minister in charge.

(*b*) the amounts of collection year by year;

(*c*) the number of certificates issued for realisation of loans in each year;

(*d*) the amounts of dues, principal and interest, outstanding on the 1st April each year; and

(*e*) the number of certificate cases pending on the 1st July, 1940?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) to (*e*) The information is being collected and will be supplied as soon as possible.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state when the information asked for is likely to be supplied?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Probably, in the course of the next day or so.

All-weather road between Faridpur and Boalmari.

22. Mr. HUMAYUN KABIR: Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*a*) if he is aware that there is no all-weather road between Faridpur and Boalmari;

(*b*) if his attention has been drawn to the inconvenience caused to businessmen as well as to the general public by the absence of such a road;

(*c*) if any funds were allotted out of the Road Development Fund for the construction and maintenance of such a road; if so, when and with what result; if not, why not;

(*d*) what steps, if any, have been taken by the Faridpur District Board for the construction of such a road by taking a loan from the Government; and

(*e*) whether the Government propose to take early steps to provide such a road?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) Yes.

(*b*) No.

(*c*) No. I can find no reference to the road in Mr. King's Report.

(*d*) No application for a loan to finance the construction of the road has been received by Government.

(*e*) No.

Mr. HUMAYUN KABIR: Arising out of (*b*), will the Hon'ble Minister be pleased to enquire into the matter now that his attention has been drawn to the absence of this road?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I may explain the position to my honourable friend. As I have already stated, this road has not even been mentioned in the report of the Special Officer who drew it up in consultation with the Collector and the District Board. We can, therefore, infer that neither the District Board nor the District Officer nor the Special Officer considered it to be a road of sufficient importance. But if my honourable friend feels that there is a need for constructing the road in question, I think he ought to approach the District Board.

Mr. HUMAYUN KABIR: Is the Hon'ble Minister aware that this road forms part of the road which continues from Calcutta to Faridpur and is a continuation of the Calcutta-Jessore Road?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I do not think my honourable friend is correct, because if that was so the road would surely have found a place in the report.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state whether there is any communication by water in this area?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I want notice.

Mr. HUMAYUN KABIR: Is the Hon'ble Minister aware that this police-station Boalmari is an important trade centre in the district of Faridpur?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Yes, Sir. I am aware of that.

Mr. HUMAYUN KABIR: Is the Hon'ble Minister further aware that if there is no water road or water connection between the district headquarters and this important centre, businessmen as well as the public are bound to be inconvenienced?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, these are matters for which, I think, the District Board are responsible, and if the District Board do not consider this to be of sufficient importance, Government cannot be held responsible.

All-weather road between Faridpur and Bhanga.

23. Mr. HUMAYUN KABIR: Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*a*) if he is aware that there is no all-weather road between Faridpur and Bhanga;

(*b*) if his attention has been drawn to the inconvenience suffered by the businessmen as well as the general public on account of the absence of such a road; and

(*c*) if any fund was allotted out of the Road Development Fund for the construction and maintenance of such a road; if so, when and with what result; if not, why not?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: (*a*) and (*b*) Yes.

(*c*) The Provincial Board of Communications has approved of a project to improve this road out of Bengal's share of the Central Road Fund. This project is now under the consideration of the Government of India.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state what position this road held in the list of roads prepared by Mr. King?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I think it was No. 1, and that was the place which was also assigned by the District Board as well as the Collector.

Mr. HUMAYUN KABIR: If this road was recommended as No. 1 road, will the Hon'ble Minister be pleased to state why it has not been taken up as yet?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: On account of shortage of funds. The scheme has been approved by the Board of Communication and forwarded to the Government of India. I may state here for the information of the honourable member that there are more than one district where the No. 1 road has not been

taken up. The small amount which we annually get from the Petrol Fund and the maximum capacity of the department will not allow us to take up all the No. 1 roads at the same time. If we had done so, it would mean very slow progress for each scheme.

Dr. RADHA KUMUD MOOKERJI: Will the Hon'ble Minister be pleased to state whether he will look into Mr. King's report and find out whether one of the main arterial roads of the province has been sadly neglected and is not mentioned in the report?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: May I know which road the honourable member has in mind?

Dr. RADHA KUMUD MOOKERJI: I specially have in view the road mentioned in question No. 22 where Mr. King's name is mentioned.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, we have passed over No. 22.

Dr. RADHA KUMUD MOOKERJI: Of course, all the questions refer to the same thing. My point is that Government is apparently basing its attitude and action on Mr. King's report, and my question is whether the Hon'ble Minister will be pleased to investigate Mr. King's report and see whether more provision can be allowed for the Faridpur district in view of the difficulties in the matter of road communication.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, it is not a question of making more provision for a particular district. I would like to give this House some idea of the amount involved in the completion of the schemes which we have taken in hand. The figure comes to about a crore and twenty lakhs, but the annual subvention which we get from the Petrol Fund comes to about 16 or 18 lakhs of rupees at the most.

All-weather road between Faridpur and Rajbari.

24. Mr. HUMAYUN KABIR: Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*a*) if he is aware that there is no all-weather road between Faridpur and Rajbari;

(*b*) if his attention has been drawn to the inconvenience suffered by the businessmen as well as general public on account of the absence of such a road;

(*c*) if any fund was allotted out of the Road Development Fund for the construction and maintenance of such a road; if so, when and with what result; if not, why not; and

(*d*) whether the Government propose to take early steps to provide such a road?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar:

(*a*) Yes.

(*b*) No.

(*c*) and (*d*) No sum has been allotted and it is unlikely that any will be for a very long time to come. Road development projects already sanctioned by the Government of India, or now awaiting sanction, like the Faridpur-Bhanga Road, will require all the funds that can be made available.

Mr. HUMAYUN KABIR: Arising out of (*b*), may we take it that the District Collector or the District Board did not make any representation in this matter to the Hon'ble Minister or his department?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I believe this road has a place in the scheme prepared by the Special Officer. But, as I have already stated, it will not be possible for us to find sufficient funds to take it up.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if the scheme prepared by Mr. King has been accepted *in toto*?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: It is not a question of accepting a particular scheme *in toto* or not. I am personally very keen to see at least all the No. 1 schemes of the Report taken up at an early date.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister in that case look into this matter and also enquire from the District Board concerned if they are prepared to take any steps in the matter?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, in point of fact I know it will be extremely difficult for the District Board to take up the particular road scheme mentioned by my honourable friend.

Mr. HUMAYUN KABIR: Is it not a fact that other District Boards do maintain such roads?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I could not understand what my friend means by such roads. I think the best course would be for my honourable friend to approach the District Board. Government as a rule do not interfere in these matters.

Mr. HUMAYUN KABIR: Is it not the duty of Government to generally supervise the working of the District Boards?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: It is certainly the duty of Government to supervise the working of every District Board, but the choice of particular roads must be left to the District Board concerned which is a responsible body and Government should not force their decision on them.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is not Rajbari connected with Faridpur by railway direct?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Yes, Sir; I am told it is only an hour's journey.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: So, is it not of secondary importance that there should be an all-weather road between the two stations?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: That is the reason why it has not found a high place in the report.

Mr. HUMAYUN KABIR: In that case how are we to take the statement of the Hon'ble Minister that this road is more important than the other road mentioned in the previous question?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Well, Sir, the reason is obvious; one has a place and the other has no place in the Report. That is all.

Excise shops in the Burdwan district.

25. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Forest and Excise Department be pleased to state how many excise shops fell vacant in Burdwan district since the 1st March, 1940?

(b) How many of the vacant shops were leased to Moslems?

(c) What is estimated to be the income of each of the excise vendors in Burdwan district?

(d) Will the Hon'ble Minister be pleased to mention the name of the vendor against each shop?

MINISTER in charge of the FOREST and EXCISE DEPARTMENT (the Hon'ble Mr. Prasanna Deb Raikut): (a) Five shops.

(b) One shop.

(c) and (d) Apart from the question of labour involved in collecting the information, Government do not consider it to be either in the interest of the Excise Department or of the vendors to supply the information.

Mr. KADER BAKSH: Will the Hon'ble Minister be pleased to state whether there were any applicants for the other four shops which were leased to the Hindus?

The Hon'ble Mr. PRASANNA DEB RAIKUT: We addressed the Secretary of the Muslim Association but we did not get any reply.

Mr. KADER BAKSH: Arising out of (c) and (d), will the Hon'ble Minister be pleased to state how the Excise Department will be adversely affected if the names of the vendors are published?

The Hon'ble Mr. PRASANNA DEB RAIKUT: We must protect the vendors' interests.

Mr. KADER BAKSH: Will the Hon'ble Minister be pleased to state how the interests of any particular vendor will be affected if his name is published or mentioned for the information of the members of this House?

The Hon'ble Mr. PRASANNA DEB RAIKUT: The honourable member ought to know that the Income-Tax Department do not give such information regarding the assessees.

Khan Bahadur ATAUR RAHMAN: Sir, we could not follow the reply given to the last supplementary question put by Mr. Kader Baksh, viz., how the interests of the excise vendors will be affected if their names are known. The excise vendors' names are known to everybody in the district, and if they are published here we cannot follow what difference it makes. Will the Hon'ble Minister be pleased to give us a proper answer?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, the honourable member says that the income of each vendor is known in the district, but I fail to understand how the income can be known.

Khan Bahadur ATAUR RAHMAN: I do not know what are the difficulties of the Excise Department to get the amount of income which each assessee gets. Even if the Hon'ble Minister does not give the names of the five shops, four of which were given to Hindus and one to a Muslim, he can at least give the annual income of these shops. Is it very difficult for the Excise Department to collect that information?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I do not say it is very difficult, but the department does not consider it advisable to give out the names.

Khan Bahadur ATAUR RAHMAN: It may not be in the interest of the department, but it is in the interest of the public. Is the Hon'ble Minister aware that recently the Excise Department have decided that in some districts a certain percentage of the income of the vendors will be given to the War Fund? If they cannot gather information about the income of the vendors, how can they give a certain percentage of their income to the War Fund? So, it is very easily available if the Hon'ble Minister only wanted to give us this information. May we request the Hon'ble President to impress on the Hon'ble Minister to give us the information which is easily available to him?

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Is the Hon'ble Minister aware that as the income varies according to the sales of liquor, therefore, it is not possible to publish the income?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Yes, that is so. Sir, I do not deny that information relating to these incomes can be supplied, but as I said in my reply, I do not think it advisable to do so.

(At this stage, the Raja Bahadur of Nashipur crossed the floor and came over to the seat of the Hon'ble Sir B. P. Singh Roy.)

Mr. PRESIDENT: Order, order. The Leader of the Progressive Party has crossed the floor. He is not entitled to do so unless he changes his political views and joins the Treasury Benches.

Mr. HUMAYUN KABIR: Arising out of (*d*), will the Hon'ble Minister be pleased to state if the names of all the vendors in the district are not kept in the Collector's office?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Yes, Sir, they are kept in the Collector's office.

Mr. HUMAYUN KABIR: In that case, will the Hon'ble Minister be pleased to state where is the labour involved in publishing that list in the Council here?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Still there is much labour involved in getting all the information.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state if he did not give us to understand some time ago that a circular will be issued to the effect that half the excise shops would be given to the Hindus and half to the Muhammadans?

The Hon'ble Mr. PRASANNA DEB RAIKUT: No, Sir.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if he is aware that for Muhammadans to sell wine is *harram*?

(No answer: Laughter.)

Mr. PRESIDENT: Order, order. The House will now take up further discussion of the Special Motion relating to the Bengal Motor Vehicles Rules, 1940.

Mr. RANAJIT PAL CHAUDHURI: On a point of information, Sir. My question No. 22 has not been answered. May I know when it will be taken up?

Mr. PRESIDENT: The Hon'ble Minister in charge of the Home Department informed me that he might not be able to come during the question hour. So, the question has been postponed.

Special Motion relating to Amendments to the Bengal Motor Vehicles Rules, 1940.

Mr. PRESIDENT: The Motor Vehicles Rules were being discussed yesterday when it had to be stopped for taking up the motion for adjournment. The House knows that there was a joint conference of both the Chambers which submitted its report. But the statutory period of 14 days during which the Legislature had the right to make amendments, if any, having now expired, the Council has no more

legal right to amend the rules. So, it has been decided to adopt the procedure of making recommendations on the understanding that the Government will incorporate them in the Bengal Motor Vehicles Rules.

So far as the scope of the Special Motion is concerned I hold that it is very wide, because any member is entitled to propose amendments for alteration, addition or omission of any rule suggested by the joint conference. Now, I shall take up the amendments proposed by the hon'ble members to the different rules *seriatim*.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in rule 2, a new paragraph (*f*) providing that the term "District Magistrate" includes an "Additional District Magistrate," be inserted.

Mr. PRESIDENT: Amendment moved: that in rule 2, a new paragraph (*f*) providing that the term "District Magistrate" includes an "Additional District Magistrate" be inserted.

Mr. LALIT CHANDRA DAS: On a point of information, Sir. I think it was decided that the term "District Magistrate" shall include "Additional District Magistrate." How is it then that this clause is proposed to be inserted now? Will the Home Minister please explain?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is necessary because there are certain occasions when the term "District Magistrate" does not include "Additional District Magistrate."

Mr. LALIT CHANDRA DAS: I think there was an agreed decision in the Lower House on that point; so what are we doing here?

The Hon'ble Khwaja Sir NAZIMUDDIN: We are moving as amendments those things which we have accepted in the Lower House. Unless we do so, the rules cannot be accepted. So, they will have to be put in the form of amendments to be passed by this House.

Mr. PRESIDENT: The question before the House is: that in rule 2, a new paragraph (*f*) providing that the term "District Magistrate" includes an "Additional District Magistrate," be inserted.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in rule 9 (*b*), for the words "two members of that authority selected by him," the words "two members of that authority elected by it from time to time," be substituted.

Mr. PRESIDENT: *Amendment moved: that in rule 9 (b), for* the words "two members of that authority selected by him," the words "two members of that authority elected by it from time to time," be substituted.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in rule 9 (*c*) (*1*) (*i*), for the words "selected by him", the words "elected by it from time to time" be substituted.

Mr. PRESIDENT: Amendment moved: that in rule 9 (*c*) (*1*) (*i*), for the words "selected by him", the words "elected by it from time to time" be substituted.

(The amendment was agreed to.)

The Hon'ble Khwaja Sir NAZIMUDDIN: May I suggest one thing for your consideration, Sir? In view of the fact that there is no likelihood of any opposition, the Hon'ble Minister may be allowed to move the amendments in groups?

Mr. PRESIDENT: But he shall have to place the amendments before the House. However, I will allow him to move the amendments in groups.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that after rule 9 (*c*), the following sub-rule (*d*) be added:—

"(*d*) The provisions of section 5 and section 12 of the Indian Limitation Act, 1908, will apply to appeals under sub-rule (*c*)."

Mr. PRESIDENT: Amendment moved: that after rule 9 (*c*), the following sub-rule (*d*) be added:—

"(*d*) The provisions of section 5 and section 12 of the Indian Limitation Act, 1908, will apply to appeals under sub-rule (*c*)."

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I understand that Mr. Nur Ahmed will not move any of his amendments.

Mr. PRESIDENT: Mr. Nur Ahmed, may I take it that you will not move any of your amendments?

Mr. NUR AHMAD: Yes, Sir. I will not move any amendments.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in rule 10 (*a*), the words and figure "rule 8 or" be deleted and for the words "two rupees", the words "one rupee", be substituted.

Mr. PRESIDENT: Amendment moved: that in rule 10 (*a*), the words and figure "rule 8 or" be deleted and for the words "two rupees", the words "one rupee" be substituted.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in rule 10 (*c*), after the word "prefer" and before the words "and shall make an order accordingly", the words "or make any amendment consequential or incidental or that may be just or proper" be inserted.

Mr. PRESIDENT: Amendment moved: that in rule 10 (*c*), after the word "prefer" and before the words "and shall make an order accordingly", the words "or make any amendment consequential or incidental or that may be just or proper" be inserted.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in rule 13 (*d*), for the words "five rupees", the words "three rupees" be substituted.

Mr. PRESIDENT: Amendment moved: that in rule 13 (*d*), for the words "five rupees", the words "three rupees" be substituted.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move—

that in rule 14 (*c*), the words "if the licence is more than five years old and in other cases five rupees" be omitted;

that in rule 16 (*a*), for sub-rule (*a*) the following be substituted:—

"(*a*) When the holder of a licence has submitted the licence to a licensing or other authority for renewal or for obtaining an authorisation to drive a public service vehicle and has deposited the prescribed fee, or when a police officer or any Court has taken temporary possession of a licence for any purpose other than that of sub-section (*2*) of section 129 of the Act and the licence has not been suspended or cancelled the licensing or other authority or the police officer or the Court, as the case may be, shall furnish him with a receipt for the licence and temporary authorisation to drive in Form L Tem. When a police officer seizes a licence under sub-section (*2*) of section 129 of the Act,

he shall give to the person surrendering the licence the temporary authorisation to drive under sub-section (3) of the said section also in Form L Tem. During such period as may be specified in Form L Tem. the production thereof on demand shall be deemed to be production of the licence";

that in rule 22, the following sub-rule (*h*) be added:—

"(*h*) Any person aggrieved by an order of refusal made by the licensing authority under sub-rule (*b*) may, within thirty days of the communication to him of the order, appeal—

(*i*) where the licensing authority is the Deputy Commissioner of Police, Public Vehicles Department, to the Commissioner of Police, Calcutta;

(*ii*) where the licensing authority is the District Magistrate, to the Commissioner of the Division.

The procedure laid down in Rule 10 for the conduct and hearing of appeals shall apply to all appeals preferred under this sub-rule";

that in rule 23, for the words "one month and three months", the words "three months" and "six months" be substituted;

that in rule 29, the words beginning from "graders" to the end of the rule, be omitted;

that in rule 30 (*f*), for the words and figures "25 per cent." and "50 per cent.", the words and figures "125 per cent." and "150 per cent." respectively be substituted;

that in rule 33 (*a*), for the words "two rupees", the words "one rupee" be substituted;

that in rule 33 (*c*), after the words "as the case may be" and before "and shall make an order accordingly", the words "or make any amendment consequential or incidental or that may be just or proper" be inserted.

Mr. PRESIDENT: Amendments moved:

that in rule 14 (*c*), the words "if the licence is more than five years old and in other cases five rupees" be omitted;

that in rule 16 (*a*), for sub-rule (*a*) the following be substituted:—

"(*a*) When the holder of a licence has submitted the licence to a licensing or other authority for renewal or for obtaining an authorisation to drive a public service vehicle and has deposited the prescribed fee, or when a police officer or any Court has taken temporary possession of a licence for any purpose other than that of sub-section (2) of section 129 of the Act and the licence has not been suspended or cancelled, the licensing or other authority or the police officer or the

Court, as the case may be, shall furnish him with a receipt for the licence and temporary authorisation to drive in Form L Tem. When a police officer seizes a licence under sub-section (2) of section 129 of the Act, he shall give to the person surrendering the licence the temporary authorisation to drive under sub-section (3) of the said section also in Form L Tem. During such period as may be specified in Form L. Tem. the production thereof on demand shall be deemed to be production of the licence";

that in rule 22, the following sub-rule (*h*) be added:—

"(*h*) Any person aggrieved by an order of refusal made by the licensing authority under sub-rule (*b*) may, within thirty days of the communication to him of the order, appeal—

(*i*) where the licensing authority is the Deputy Commissioner of Police, Public Vehicles Department, to the Commissioner of Police, Calcutta;

(*ii*) where the licensing authority is the District Magistrate, to the Commissioner of the Division.

The procedure laid down in Rule 10 for the conduct and hearing of appeals shall apply to all appeals preferred under this sub-rule";

that in rule 23, for the words "one month and three months", the words "three months and six months" be substituted;

that in rule 29, the words beginning from "graders" to the end of the rule, be omitted;

that in rule 30 (*f*), for the words and figures "25 per cent." and "50 per cent.", the words and figures "125 per cent." and "150 per cent." respectively be substituted;

that in rule 33 (*a*), for the words "two rupees", the words "one rupee" be substituted;

that in rule 33 (*c*), the words "or make any amendment consequential or incidental or that may be just or proper" be inserted after the words "as the case may be" and before the words "and shall make an order accordingly."

(The amendments were agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move—

that in rule 41 (*b*), the words "sixteen rupees except in the case of a motor cycle and invalid carriage when the fee shall be five rupees" be omitted and the words "half the registration fee" be substituted;

that in line 2 of rule 47 (*a*), for the words "a province", the words "the province" be substituted;

that in rule 50, words commencing from "graders" occurring in line 2 to the end of the rule, be omitted; and

that rule 54 be omitted.

Mr. PRESIDENT: Amendments moved: that—

in rule 41 (*b*), the words "sixteen rupees except in the case of a motor cycle and invalid carriage when the fee shall be five rupees" be omitted and the words "half the registration fee" be substituted;

in line 2 of rule 47 (*a*), for the words "a province", the words "the province" be substituted;

in rule 50, words beginning from "graders" occurring in line 2 to the end of the rule, be omitted; and

that rule 54 be omitted.

(The amendments were agreed to.)

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I beg to move that in rule 60 (*a*) (*iv*), before the words "the Muslim Chamber of Commerce", the following words be inserted:—

"Marwari Chamber of Commerce."

Sir, the reason for this amendment is very obvious. Under rule 60 (*iv*), it has been said that the provincial transport shall consist of Bengal Chamber of Commerce, Indian Chamber of Commerce, Bengal National Chamber of Commerce and the Muslim Chamber of Commerce. Sir, one Chamber of Commerce, that is, the Marwari Chamber of Commerce, which has long been in existence not only in the province but which has also been recognised even by the British Parliament, and which under the Government of India Act has been allotted a special seat in the constitution of the Provincial Legislature has been left out. There can be no doubt that it is one of the most important bodies in the province so far as trade and commerce are concerned. The Marwari Chamber of Commerce not only deal in motor business, but they are also dealers and consumers of motor vehicles. Thus, it is justifiable that they should be given representation when so many other Chambers of Commerce have been given representation.

I understood that the omission was due to the fact that they had not sent their representation to Government in proper time, but I now understand that they have already sent in their representation to Government. So, I think there cannot be any objection on the part of the Government to insert their name.

Mr. PRESIDENT: Amendment moved: that in rule 60 (*a*) (*iv*), before the words "the Muslim Chamber of Commerce", the following words be inserted:—

"Marwari Chamber of Commerce."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I am afraid, I have to oppose the amendment of the Raja Bahadur on the following grounds. First of all, a large number of persons are already proposed to be on the Board, so that it is going to be an unwieldy body; and secondly, as pointed out by the Raja Bahadur, the Marwari Chamber of Commerce did not put in their claims in time, though the rules had been before the public for nearly a year. That shows that the Marwari Chamber of Commerce did not take much interest in the Motor Vehicles Rules.

Then, there is another question. The Indian Chamber of Commerce has been given representation on the Board. The majority of the members of the Marwari Chamber of Commerce are members of the Indian Chamber. At any rate, the interests of the Marwari Chamber of Commerce and the Indian Chamber of Commerce are practically identical. So, on these grounds, I venture to oppose this amendment and I hope the Raja Bahadur will withdraw his amendment.

Dr. RADHA KUMUD MOOKERJI: Sir, I rise to record my emphatic support in favour of the amendment just now moved by the Raja Bahadur of Nashipur. My reasons are quite simple, and I am sorry to say that I am not at all influenced by the very weak arguments advanced by the Leader of the House.

My first point is that the Government should not take any action on the mere fact that the Marwari Chamber of Commerce has been late in making its representation. The matter, in fact, is still open to discussion, and so long as we know in this House that the Marwari Chamber of Commerce has made a proper representation on the subject, we are bound in this House to take note of that. I think Government cannot say that the representation made by the Marwari Chamber of Commerce is barred by time.

My next point is that the Marwari Chamber of Commerce is an influential body that has been recognized by the Government of India Act itself. Now, if it is regarded as eligible for all kinds of franchise and representation on the various public bodies in the province, I do not see why the Marwari Chamber of Commerce should be omitted from any consideration so far as this most important matter about the public vehicles is concerned. The Marwari Chamber of Commerce is vitally interested in the problems of transport by means of motor vehicles. We all know how the countryside has been opened up by bus service which is generally very efficiently managed and very adequately financed by Marwari gentlemen in commerce and business. Therefore, I do not see why they should be penalised. I do not think that the addition of one member will make the body very unwieldy, and specially considering the standing of the Marwari Chamber of Commerce I think it is very invidious that they alone should be singled

out for expulsion from this body with the activities of which they are so vitally connected. I do hope, Sir, that the Government will be considerate enough in waiving the very technical point raised that the Marwari Chamber of Commerce did not send up its representation in time. Nothing is too late in law, and we are here to consider such matters up to the last moment till the legislation is passed. The Hon'ble Home Minister assured us just now that we all should be competent in bringing forward amendments at this stage. We are really considering the rules for the last time, and I think this small addition of only one member cannot be objected to. I understand, Sir, that there is an amendment even for the addition of another seat to this so-called unwieldy body. If it is so, the Hon'ble Leader's argument absolutely falls to the ground. I do not think that any cogent argument has been advanced to show why such an important body as the Marwari Chamber of Commerce should have no place in the governance of this important industry.

Rai Bahadur MANMATHA NATH BOSE: I think, Sir, I need not make any lengthy speech on this occasion, but if the proposal of the Hon'ble Minister is to introduce the Indian Road and Transport Development Association, then I do not see why there should be any objection to bringing in the Marwari Association. As a matter of fact, if the Government is prepared to bring in another member, I think the Marwari Association should also be taken in.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, we went into this question also in the conference, and I may point out to the House without going into the merits of the point relating to the importance of the Marwari Chamber of Commerce—which I do not in any way want to dispute—that the rules were published about six months ago. They were before the country, and then they were discussed at the last session when they were referred to a joint conference. It took us two months to deal with them in the joint conference. Throughout this time no interest was taken whatsoever by the Marwari Chamber of Commerce. On the other hand, in the rules that were published, the Indian Chamber of Commerce did not get any representation, but they came up to us, not only made representation in writing but saw me and other members, and put up their claim. We went into the matter and decided to include them. As far as the Marwari Chamber of Commerce is concerned, Sir, we have seen no signs of any interest whatsoever even up to the end of the submission of the report of the joint conference—speaking subject to correction. I did not receive any representation from the Chamber itself saying that they wanted this thing to be done.

Dr. RADHA KUMUD MOOKERJI: We are now approaching the Government on their behalf.

The Hon'ble Khwaja Sir NAZIMUDDIN: I say that if the Chamber of Commerce is not interested in this matter, others should not press its claim.

Mr. SHRISH CHANDRA CHAKRAVERTI: They have already made a representation.

The Hon'ble Khwaja Sir NAZIMUDDIN: May have done so since the submission of the report. It was certainly not done while the report was under discussion, and I submit that if you thrust and foist representation on it——

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: On a point of information. I have received a copy from the Marwari Association saying that they have sent their representation to Government on 12th May, 1940, and they sent a copy of that to me.

Mr. PRESIDENT: Representation to whom?

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: To Government.

The Hon'ble Khwaja Sir NAZIMUDDIN: Well, Sir, as I said, I spoke subject to correction. I say that there is no keenness on their part. You are thrusting it on them and the result will be that either they will take no interest, or they will be taking a person who will be taking no interest.

Mr. HUMAYUN KABIR: It does not matter.

The Hon'ble Khwaja Sir NAZIMUDDIN: You increase your body unnecessarily and your balance goes. Then others will come up with their claims.

Dr. RADHA KUMUD MOOKERJI: I understand that the representation of the Marwari Chamber of Commerce was addressed to the Hon'ble the Home Minister on the 8th of May, 1940. I think that on a mere technical ground they should not be debarred.

The Hon'ble Khwaja Sir NAZIMUDDIN: If it was on the 8th May, it was after the thing was turned down by the joint conference.

Dr. RADHA KUMUD MOOKERJI: But the joint conference went on after the 8th May; so they thought that they would be included automatically.

The Hon'ble Khwaja Sir NAZIMUDDIN: I am prepared to reconsider the matter, although I still think that it would not be right to do so. In my opinion, no particular interest would be served by their inclusion.

Dr. RADHA KUMUD MOOKERJI: I think they should have a representation being a very important commercial community.

The Hon'ble Khwaja Sir NAZIMUDDIN: We must look at this question from the point of view of what interest a particular body has been taking in the matter. The Indian Chamber of Commerce as a commercial body has already been included, and I do not think any useful purpose would be served by including the Marwari Chamber in addition.

Dr. RADHA KUMUD MOOKERJI: Perhaps being politically backward, they did not think of moving in the matter at the right moment. But being very forward commercially, they might have expected to be included automatically.

The Hon'ble Khwaja Sir NAZIMUDDIN: The Marwari Chamber of Commerce got representation in the Legislature probably on historical grounds but that is no justification why they should get a representation here also. Moreover, the Marwari business interest has got its representation in the Indian Chamber of Commerce which has been represented on this body. Therefore, if the Marwari Chamber gets further representation, it would practically amount to double representation.

Dr. RADHA KUMUD MOOKERJI: But in our present constitution, there is double representation in some form.

The Hon'ble Khwaja Sir NAZIMUDDIN: If it is pressed on that ground, then I must oppose the motion. If this is allowed in favour of the Marwari Chamber of Commerce, it would be unfair to the Bengal Chamber of Commerce as well as the Bengal National Chamber of Commerce. Marwari commercial interests have got adequate representation in the Indian Chamber of Commerce and, as such, I think no separate representation for them is necessary. It was on historical ground, as I have already said, that they got representation in the Legislature, but it is almost a dead body now. Even as a commercial

body they have not taken much interest in anything and in this particular matter they never came up and asked for any representation. Besides, only the other day it has been stated in this very House that everything concerning Bengal should be confined to this province.

Mr. LALIT CHANDRA DAS: Sir, I had no intention to take part in this debate so far as this amendment was concerned, but certain remarks of the Hon'ble Home Minister have compelled me to speak. He has said that so far as the representation of the Marwari Chamber of Commerce is concerned, it will be a case of double representation because the Marwaris are already represented in the Indian Chamber of Commerce. I want to remind the Hon'ble Minister that although the Europeans are getting representation in the Provincial Transport Board through the Bengal Chamber of Commerce, they are also getting another representation by the addition of a representative from the Indian Road and Transport Development Association. Here is a case of double representation which does not incense the Hon'ble Minister, but its very mention in support of the representation of another body upsets him.

Mr. J. B. ROSS: On a point of order, Sir. The representative of the Indian Road and Transport Development Association need not be a European at all.

Mr. LALIT CHANDRA DAS: The representative of the Indian Chamber of Commerce need not also be a Marwari at all. I submit, Sir, that the request for reconsidering the representation of the Marwari Chamber of Commerce should not be summarily rejected. It is not a matter which should upset the Hon'ble Minister at all. In view of the fact that the Marwari Chamber of Commerce has been recognised and given a seat in our Legislature and in view also of the fact that we are going to include a representative of the Indian Road and Transport Development Association in addition to the representation of the Bengal Chamber of Commerce, we shall be glad if a representative of the Marwari Chamber of Commerce is included.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the speech of Mr. Lalit Chandra Das has placed me in a great difficulty. It was only yesterday that Mr. Das declared that we must not bring in non-Bengalis here. But to-day like a clever lawyer he has changed sides and has asked for the representation of a non-Bengali community on this body. Dr. Radha Kumud Mookerji has followed suit. It is remarkable that although the Marwaris do not trouble themselves about their special representation, Mr. Das has assumed the role of a gratuitous champion of that community. He appears to be more

affectionate to the Marwaris than the Marwaris themselves. There is a Bengali saying which is expressed by a question and an answer. "Who loves the child more than its mother?" The answer is "the witch or the step-mother." Who loves the Marwaris more than the Marwaris themselves? One may conjecture that the answer might be "Dr. Radha Kumud Mookerji and Mr. Lalit Chandra Das."

Mr. AMULYADHONE ROY: Sir, Khan Bahadur Naziruddin Ahmad's speech does not convey the idea that he is opposing the motion.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Please do not spoil the case further.

Mr. AMULYADHONE ROY: If a debate on the point spoils the case and makes Sir Nazimuddin go out of temper, then let it be spoiled.

Mr. PRESIDENT: Amendment moved: that in rule 60 (*a*) (*iv*), before the words "the Muslim Chamber of Commerce", the following words be inserted:—

"Marwari Chamber of Commerce."

(The amendment was negatived.)

Dr. RADHA KUMUD MOOKERJI: Are we to understand that Government will reconsider this point?

Mr. PRESIDENT: Order, order. The matter is closed.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that in rule 60 (*a*) (*iv*), the word "and" be deleted and the words "and the Indian Road and Transport Development Association" be added before the words "Muslim Chamber of Commerce".

Mr. PRESIDENT: Amendment moved: that in rule 60 (*a*) (*iv*), the word "and" be deleted and the words "and the Indian Road and Transport Development Association" be added before the words "Muslim Chamber of Commerce".

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move—

that in rule 60 (*a*) (*vi*), the words "and executive officer of the authority" be omitted;

that for rule 60 (*c*), the following be substituted, viz.:—

"At the first meeting of the Provincial Transport Authority after this sub-rule comes into force, the said authority shall elect one of the members to be the Deputy Chairman. If the Chairman is unable to attend a meeting, the Deputy Chairman shall act as Chairman at the meeting and in the absence of both the Chairman and the Deputy Chairman at any meeting, the members present shall elect one of their number to act as Chairman";

that for sub-rule 60 (*d*), the following be substituted:—

"(*d*) The Chairman, or the Deputy Chairman or any member acting as Chairman under sub-rule (*c*) shall have a second or casting vote in all cases of equality of votes";

that in rule 60 (*h*), the word "nominated" in line 1 be omitted and after the word "authority", the words "other than ex-officio member" be inserted, and for the word "nominated" in lines 3 and 5, the words "elected or appointed" be inserted.

Mr. PRESIDENT: Amendments moved:

that in rule 60 (*a*) (*vi*), the words "and executive officer of the authority" be omitted;

that for rule 60 (*c*), the following be substituted:—

"At the first meting of the Provincial Transport Authority after this sub-rule comes into force the said authority shall elect one of the members to be the Deputy Chairman. If the Chairman is unable to attend a meeting, the Deputy Chairman shall act as Chairman at the meeting and in the absence of both the Chairman and the Deputy Chairman at the meeting, the members present shall elect one of their number to act as Chairman";

that for sub-rule 60 (*d*), the following be substituted:—

"(*d*) The Chairman or the Deputy Chairman or any member acting as Chairman under sub-rule (*c*) shall have a second or casting vote in all cases of equality of votes";

that in rule 60 (*h*), the word "nominated" in line 1 be omitted and after the word "authority", the words "other than ex-officio member" be inserted and for the word "nominated" in lines 3 and 5, the words "elected or appointed" be inserted.

(The amendments were agreed to.)

Mr. MESBAHUDDIN AHMED: I beg to move—

that in rule 61 (*b*) (*I*) (*iv*) in lines 2-3, the words "elected by the Commissioners at a meeting" be substituted for the words "nominated by the Provincial Government";

that in rule 61 (*b*) (*1*) (*v*) in lines 1 and 2, the words "elected by the Councillors and Aldermen at a meeting" be substituted for the words "nominated by the Provincial Government".

Mr. PRESIDENT: Amendments moved:

that in rule 61 (*b*) (*1*) (*iv*) in lines 2-3, the words "elected by the Commissioners at a meeting" be substituted for the words "nominated by the Provincial Government"; and

that in rule 61 (*b*) (*1*) (*v*) in lines 1 and 2, the words "elected by the Councillors and Aldermen at a meeting" be substituted for the words "nominated by the Provincial Government".

(The amendments were agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move—

that for rule 61 (*d*), the following be substituted:—

"At the first meeting of the Regional Transport Authority after this sub-rule comes into force the said authority shall elect one of the members to be the Deputy Chairman. If the Chairman is unable to attend a meeting, the Deputy Chairman shall act as Chairman at the meeting and in the absence of both the Chairman and the Deputy Chairman at the meeting, the members present shall elect one of their number to act as Chairman";

that for rule 61 (*e*), the following be substituted:—

"The Chairman or the Deputy Chairman or any member acting as Chairman under sub-rule (*d*) shall have a second or casting vote in all cases of equality of votes";

that in rule 61 (*g*), the word "nominated" be omitted and after the word "authority" the words "if such a member has been guilty of misconduct in the discharge of his duties or any disgraceful conduct and after having given an opportunity to the member to be heard" be inserted;

that in rule 61 (*h*), the word "nominated" in line 1 be omitted and after the word "authority" the words "other than an ex-officio member" be inserted, and for the word "nominated" in lines 3 and 5, the words "elected or appointed" be inserted;

that in rule 61 (*i*), the word "nominated" in line 1 be omitted and after the word "authority" in line 1, the words "not being a servant of the Crown in India" be inserted;

that in rule 61A, the following new rule be inserted:—

"61A. No person shall be a member of both of the Provincial Transport Authority and of a Regional Transport Authority";

that in rule 62 (*d*), for the word "one-third" in last line but three, the words "one quarter" be substituted;

that in rule 62 (*h*), the words "voting may be by ballot if so decided by the authority" be added;

that after rule 62 (*i*), the following proviso be added:—

"Provided that when the Secretary has refused a permit such refusal shall be subject to the approval of the authority at its next meeting";

that in rule 65 (*b*), after the word "newspaper", the words "or newspapers" be added;

that in rule 66 (*a*), the word "either" in the fifth line of the sub-rule be omitted; also the word "may" in the penultimate line of the sub-rule be omitted;

that in rule 66 (*c*), before the word "either" in the fourth line, the words "and conduct his case" be inserted.

that in rule 71 for the existing rule the following be substituted:—

"(*a*) Subject to the provisions of section 63 of the Act, a Regional Transport Authority (hereinafter referred to as the original Transport Authority) may issue a permit other than a permit in Form P. St. P., a permit in Form P. St. S. and a permit in Form P. Co. S., having validity in any other region in the Province in accordance with any general or special resolution recorded by any other Regional Authority, and any permit so issued shall be of like effect in the region of the other Authority as if it were issued by that Authority provided always that the vehicles to which the permit refers are normally kept within the region of the original Transport Authority. When issuing the permit aforesaid the original Transport Authority may subject to the provision of sub-rule (*b*) attach conditions to the permit with effect to such other region and may vary conditions of the permit in different regions.

(*b*) An original Transport Authority may issue under this rule a contract carriage permit in Form P. Co. S. with effect in any other region or regions if it attaches a condition to the permit to the effect that the vehicle or vehicles shall only be used beyond the region of the original Transport Authority under a contract for a return journey commencing and ending within the region of the original Transport Authority and shall not be offered for hire outside that region.

(*c*) The original Transport Authority which issues a permit with effect in any other region under this rule shall send a copy of the permit to the Authority of the other region.

(*d*) Nothing in this rule shall affect the right of the holder of any permit to apply to any Regional Transport Authority for countersignature of a permit."

Mr. PRESIDENT: Amendments moved: that—

for rule 61 (*d*), the following be substituted:—

"At the first meeting of the Regional Transport Authority after this sub-rule comes into force the said authority shall elect one of the members to be the Deputy Chairman. If the Chairman is unable to attend a meeting, the Deputy Chairman shall act as Chairman at the meeting and in the absence of both the Chairman and the Deputy Chairman at the meeting, the members present shall elect one of their number to act as Chairman";

for sub-rule (*e*), the following sub-rule be substituted:—

"The Chairman, or the Deputy Chairman or any member acting as Chairman under sub-rule (*d*) shall have a second or casting vote in all cases of equality of votes";

in rule 61 (*g*), the word "nominated" be omitted and after the word "authority", the words "if such a member has been guilty of misconduct in the discharge of his duties or any disgraceful conduct and after having given an opportunity to the member to be heard" be inserted;

in rule 61 (*h*), the word "Nominated" in line 1 be omitted and after the word "authority", the words "other than an ex-officio member" be inserted, and for the word "nominated" in lines 3 and 5, the words "elected or appointed" be inserted;

in rule 61 (*i*), the word "nominated" in line 1 be omitted and after the word "authority" in line 1, the words "not being a servant of the Crown in India" be inserted;

in rule 61A, the following new rule be inserted:—

"61A. No person shall be a member both of the Provincial Transport Authority and of a Regional Transport Authority";

in rule 62 (*d*), for the word "one-third" in last line but three, the words "one quarter" be substituted;

in rule 62 (*h*), the words "voting may be by ballot if so decided by the authority" be added;

in rule 62 (*i*), the following proviso be added:—

"Provided that when the Secretary has refused a permit such refusal shall be subject to the approval of the authority at its next meeting";

in rule 65 (*b*), after the word "newspaper", the words "or newspapers" be inserted;

in rule 66 (*a*), the word "either" in the fifth line of the sub-rule be omitted; also the word "may" in the penultimate line of the sub-rule be omitted;

in rule 66 (*c*), before the word "either" in the fourth line, the words "and conduct his case" be inserted;

in rule 71, for the existing rule, the following be substituted:—

"(*a*) Subject to the provisions of section 63 of the Act, a Regional Transport Authority (hereinafter referred to as the original Transport Authority) may issue a permit other than a permit in Form P. St. P., a permit in Form P. St. S. and a permit in Form P. Co. S., having validity in any other region in the Province in accordance with any general or special resolution recorded by any other Regional Authority, and any permit so issued shall be of like effect in the region of the other Authority as if it were issued by that Authority provided always that the vehicles to which the permit refers are normally kept within the region of the original Transport Authority. When issuing the permit aforesaid the original Transport Authority may subject to the provision of sub-rule (*b*) attach conditions to the permit with effect to such other region and may vary conditions of the permit in different regions.

(*b*) An original Transport Authority may issue under this rule a contract carriage permit in Form P. Co. S. with effect in any other region or regions if it attaches a condition to the permit to the effect that the vehicle or vehicles shall only be used beyond the region of the original Transport Authority under a contract for a return journey commencing and ending within the region of the original Transport Authority and shall not be offered for hire outside that region.

(*c*) The original Transport Authority which issues a permit with effect in any other region under this rule shall send a copy of the permit to the Authority of the other region.

(*d*) Nothing in this rule shall affect the right of the holder of any permit to apply to any Regional Transport Authority for countersignature of a permit."

(The amendments were agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that after rule 71, the following be added:—

"*71A. Permits—Inter-regional stage carriage—*

(*a*) Subject to the provisions of section 63 of the Act an application for a stage carriage permit having validity in two or more regions within the Province shall be considered at a Joint

Conference of the Regional Transport Authorities concerned to be held periodically at such times and at such places within one of the regions concerned as the Chairmen of the said Regional Transport Authorities may jointly decide; provided that the authorities concerned shall not meet in Joint Conference more than once in each of the periods of three months of January to March, April to June, July to September and October to December, but any such meeting may continue for more than one day.

(*b*) Upon receipt of such an application the Secretary of the Regional Transport Authority to which the application is preferred (hereinafter referred to as the Original Transport Authority) shall if the application is in order, with all reasonable despatch, circulate particulars thereof to the other Regional Transport Authorities concerned together with an enquiry as to the date on which the matter is to be decided by Joint Conference.

(*c*) In fixing the date on which the application is to be considered by Joint Conference the Regional Transport Authorities concerned shall without prejudice to the proper examination of the application and any enquiries in connection therewith have regard to the desirability of avoiding delay in the issue of such a permit and shall so arrange its business that the permit shall normally be granted or refused within the quarterly period referred to in sub-rule (*a*) in which the application is received.

(*d*) The Chairman of the Original Transport Authority shall be the Chairman of the Conference.

(*e*) The Procedure for the hearing of applications for permits laid down in rule 66 shall apply to the hearing of applications at a Joint Conference under this rule.

(*f*) Each Regional Transport Authority at the Conference shall have one vote.

(*g*) The decision of a Joint Conference shall be recorded in the form of a resolution.

(*h*) In accordance with any resolution recorded at the Joint Conference the Original Transport Authority may issue the stage carriage permit applied for after obtaining the countersignature of the Regional Transport Authority concerned according to the provisions of section 63 of the Act and the permit so issued shall be of like effect in the regions of the other authorities as if it were issued by those authorities provided always that the vehicle or vehicles to which the permit refers are normally kept within the region of the Original Transport Authority.

(*i*) The Original Transport Authority which issues a stage carriage permit with effect in any other regions under this rule shall send a copy of the permit to the authorities of the other regions concerned.

(*j*) If on account of an equality of votes the Joint Conference fails to reach a decision or if any of the Regional Transport Authorities fails to accept the decision reached by the votes, such failure shall be recorded in a resolution of the Conference.

(*k*) (*i*) In the event of a resolution being passed under sub-rule (*j*), the Chairman of the Joint Conference shall, within thirty days from the date of such resolution refer the matter to the Provincial Transport Authority under clause (*c*) of sub-section (3) of section 44 of the Act for decision and shall forward to the Secretary all the relevant documents (in duplicate), with a covering memorandum setting forth concisely the grounds of objection of the dissenting Regional Transport Authority to the grant of the permit or to the decision of the Joint Conference as the case may be.

(*ii*) As soon as may be after a resolution is passed under sub-rule (*j*) the Chairman shall cause a copy of the resolution to be communicated to the applicant or applicants, as the case may be.

(*l*) Any person aggrieved by the failure of the Original Transport Authority to grant a permit or the failure of a Regional Transport Authority to countersign a permit in view of the resolution of the Joint Conference recorded under sub-rule (*j*) may, within 30 days from the date of receipt of the copy of the resolution under clause (*ii*) of sub-rule (*k*), appeal to the Provincial Transport Authority and the provisions of sub-rules (*b*) to (*f*) of rule 90A shall, *mutatis mutandis*, apply to such appeals.

(*m*) If an appeal is preferred under sub-rule (*l*) the Provincial Transport Authority shall deal with and dispose of the reference made to it under sub-rule (*k*) in respect of the subject-matter of such appeal, along with, but not before, the hearing of such appeal.

(*n*) The order passed by a Provincial Transport Authority on a reference made to it under sub-rule (*k*) or on an appeal under sub-rule (*l*) or under sub-rule (*b*) of rule 90A, and the order passed by the Appellate Authority on an appeal under rule 89 from the decision of a Provincial Transport Authority on a reference made to it under sub-rule (*k*) shall be forthwith communicated to the Original Transport Authority and a copy of every such order shall be also sent

to each of the other Regional Transport Authorities concerned, and if any such order directs the issue of or confirms any decision for the issue of, a permit, the Original Transport Authority shall issue the permit in pursuance of the said order and the provisions of sub-rules (*h*) and (*i*) shall apply."

Mr. PRESIDENT: Amendment moved: that after rule 71, the following be inserted:—

"*71A. Permits—Inter-regional stage carriage—*

(*a*) Subject to the provisions of section 63 of the Act an application for a stage carriage permit having validity in two or more regions within the province shall be considered at a Joint Conference of the Regional Transport Authorities concerned to be held periodically at such times and at such places within one of the regions concerned as the Chairmen of the said Regional Transport Authorities may jointly decide; provided that the authorities concerned shall not meet in Joint Conference more than once in each of the periods of three months of January to March, April to June, July to September and October to December, but any such meeting may continue for more than one day.

(*b*) Upon receipt of such an application the Secretary of the Regional Transport Authority to which the application is preferred (hereinafter referred to as the Original Transport Authority) shall if the application is in order, with all reasonable despatch, circulate particulars thereof to the other Regional Transport Authorities concerned together with an enquiry as to the date on which the matter is to be decided by Joint Conference.

(*c*) In fixing the date on which the application is to be considered by Joint Conference the Regional Transport Authorities concerned shall without prejudice to the proper examination of the application and any enquiries in connection therewith have regard to the desirability of avoiding delay in the issue of such a permit and shall so arrange its business that the permit shall normally be granted or refused within the quarterly period referred to in sub-rule (*a*) in which the application is received.

(*d*) The Chairman of the Original Transport Authority shall be the Chairman of the Conference.

(*e*) The procedure for the hearing of applications for permits laid down in rule 66 shall apply to the hearing of applications at a Joint Conference under this rule.

(f) Each Regional Transport Authority at the Conference shall have one vote.

(g) The decision of a Joint Conference shall be recorded in the form of a resolution.

(h) In accordance with any resolution recorded at a Joint Conference the Original Transport Authority may issue the stage carriage permit applied for after obtaining countersignature of the Regional Transport Authority concerned according to the provisions of section 63 of the Act and the permit so issued shall be of like effect in the regions of the other authorities as if it were issued by those authorities provided always that the vehicle or vehicles to which the permit refers are normally kept within the region of the Original Transport Authority.

(i) The Original Transport Authority which issues a stage carriage permit with effect in any other regions under this rule shall send a copy of the permit to the authorities of the other regions concerned.

(j) If on account of any equality of votes the Joint Conference fails to reach a decision or if any of the Regional Transport Authorities fails to accept the decision reached by the votes, such failure shall be recorded in a resolution of the Conference.

(k) (i) In the event of a resolution being passed under sub-rule (j), the Chairman of the Joint Conference shall, within thirty days from the date of such resolution, refer the matter to the Provincial Transport Authority under clause (c) of sub-section (3) of section 44 of the Act for decision and shall forward to the Secretary all relevant documents (in duplicate), with a covering memorandum setting forth concisely the grounds of objection of the dissenting Regional Transport Authority to the grant of the permit or to the decision of the Joint Conference as the case may be.

(ii) As soon as may be after a resolution is passed under sub-rule (j) the Chairman shall cause a copy of the resolution to be communicated to the applicant or applicants, as the case may be.

(l) Any person aggrieved by the failure of the Original Transport Authority to grant a permit or the failure of a Regional Transport Authority to countersign a permit in view of the resolution of the Joint Conference recorded under sub-rule (j) may, within 30 days from the date of receipt of the

copy of the resolution under clause (*ii*) of sub-rule (*k*), appeal to the Provincial Transport Authority and the provisions of sub-rules (*b*) to (*f*) of rule 90A shall, *mutatis mutandis*, apply to such appeals.

(*m*) If an appeal is preferred under sub-rule (*l*) the Provincial Transport Authority shall deal with and dispose of the reference made to it under sub-rule (*k*) in respect of the subject-matter of such appeal, along with, but not before, the hearing of such appeal.

(*n*) The order passed by a Provincial Transport Authority on a reference made to it under sub-rule (*k*) or on an appeal under sub-rule (*l*) or under sub-rule (*b*) of rule 90A, and the order passed by the Appellate Authority on an appeal under rule 89 from the decision of a Provincial Transport Authority on a reference made to it under sub-rule (*k*) shall be forthwith communicated to the Original Transport Authority and a copy of every such order shall be also sent to each of the other Regional Transport Authorities concerned, and if any such order directs the issue of or confirms any decision for the issue of, a permit, the Original Transport Authority shall issue the permit in pursuance of the said order and the provisions of sub-rules (*h*) and (*i*) shall apply."

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: I beg to move that in the proposed rule 71A, after the word "shall" occurring in line 3, the following be inserted:—

"unless such a permit has already been countersigned by the Regional Transport Authority or Authorities concerned, other Authority issuing the permit."

Mr. PRESIDENT: Amendment moved: that in the proposed rule 71A, after the word "shall" occurring in line 3, the following be inserted:—

"unless such a permit has already been countersigned by the Regional Transport Authority or Authorities concerned, other Authority issuing the permit."

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in rule 74 (*f*), the words "exceeding two maunds" be inserted after the words "carriage of goods" in line 2.

Mr. PRESIDENT: Amendment moved: that in rule 74 (*f*), the words "exceeding two maunds" be inserted after the words "carriage of goods" in line 2.

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: I beg to move that in rule 74 (*f*), the words "on particular occasions" occurring in lines 2 and 3, be deleted.

Mr. PRESIDENT: Amendment moved: that in Rule 74(*f*), the words "on particular occasions" occurring in lines 2 and 3, be deleted.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in rule 74 (*f*) Explanation, for the word "may" in line 1, the word "shall" be substituted; and that at the end of the Explanation, the words "exceeding two maunds" be added.

Mr. PRESIDENT: Amendment moved: that in rule 74 (*f*) Explanation, for the word "may" in line 1, the word "shall" be substituted; and that at the end of the Explanation, the words "exceeding two maunds" be added.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move—

that in rule 75 (*a*), for the figure and word "20 lbs", the figure and word "10 seers" be substituted; and the words "except that in the areas outside Calcutta including the suburbs and the Municipality of Howrah 15 seers shall be allowed per passenger" be added at the end of the clause;

that in rule 78 (*a*), the words in the last line of the sub-rule be substituted by "by the fees prescribed in rules 72 to 72F";

that after rule 78 the following be inserted:—

"*Rule 78A.—Permits issued or renewed within two years of the commencement of the Act—duration of.*—Permits issued or renewed within two years of the commencement of the Act shall be effective without renewal for one year from the date of issue or renewal, as the case may be";

that in rule 85 (*c*), the following proviso be added to the sub-rule:—

"(*c*) Without prejudice to any other penalty to which the parties may be liable, any transfer of a permit ordered upon an application which the Regional Transport Authority is subsequently satisfied,

after having given the parties an opportunity of submitting an explanation, was false in respect of the matter specified in sub-rule (*b*) or in respect of any other material particular shall be void."

Mr. PRESIDENT: Amendments moved: that—

in rule 75 (*a*), for the figure and word "20 lbs", the figure and word "10 seers" be substituted; and the words "except that in the areas outside Calcutta including the suburbs and the Municipality of Howrah, 15 seers shall be allowed per passenger" be added at the end of the clause;

in rule 78 (*a*), the words in the last line of the sub-rule be substituted by "by the fees prescribed in rules 72 to 72F";

after rule 78 the following be inserted:—

"*Rule 78A.—Permits issued or renewed within two years of the commencement of the Act—duration of.*—Permits issued or renewed within two years of the commencement of the Act shall be effective without renewal for one year from the date of issue or renewal, as the case may be";

In rule 85 (*c*), the following proviso be added to the sub-rule:—

"(*c*) Without prejudice to any other penalty to which the parties may be liable, any transfer of a permit ordered upon an application which the Regional Transport Authority is subsequently satisfied, after having given the parties an opportunity of submitting an explanation, was false in respect of the matter specified in sub-rule (*b*) or in respect of any other material particular shall be void."

(The amendments were agreed to.)

Mr. MESBAHUDDIN AHMED: I beg to move that in the proposed amendment to rule 85 (*c*), for the words "Add the following proviso to the sub-rule" occurring in line 1, the following be substituted:—

"substitute the following for the present sub-rule."

Mr. PRESIDENT: Amendment moved: that in the proposed amendment to rule 85 (*c*) for the words "Add the following proviso to the sub-rule" occurring in line 1, the following be substituted:—

"substitute the following for the present sub-rule."

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move—

that in rule 86 (*c*), for the words "five rupees" and "three rupees". the words "three rupees" and "one rupee" respectively be substituted;

that in rule 89, after the words "section 64 of the Act", the words "including an order passed on a reference made to a Provincial Transport Authority under sub-rule (*k*) of rule 71A" be inserted;

that in rule 89, sub-rule (*b*) (*i*) be deleted and (*b*) (*ii*) be renumbered as (*b*) (*i*) omitting the words "and shall in that case order the appellant to deposit such fee as he may specify not exceeding fifty rupees";

that in rule 90, before the words "the authority to decide an appeal" the words, figure and letter "save as otherwise provided in rule 90A" be inserted;

that in rule 90, sub-rule (*b*) (*i*) be deleted and (*b*) (*ii*) be renumbered as (*b*) (*i*) omitting the words "and shall in that case order the appellant to deposit such fee, not exceeding twenty-five rupees as the appellate authority may specify";

that after rule 90, the following be inserted:—

"*Rule 90A.—Permits—Inter-regional stage carriage—Appeals against order of Joint Conference*:—

(*a*) The authority to decide an appeal against all orders based on the resolution of the Joint Conference passed under sub-rule (*h*) of rule 71A in respect of matters referred to in clauses (*a*), (*d*) and (*f*) of section 64 of the Act shall be the Provincial Transport Authority or a sub-committee to be appointed by it from time to time.

(*b*) Any person aggrieved, by any such order may, within thirty days of receipt of such order, prefer an appeal in writing under this rule by presenting a Memorandum (in duplicate) to the Secretary to the Provincial Transport Authority, one copy of which shall bear a court-fee stamp of one rupee and such Memorandum shall set forth concisely the grounds of objection to such order and shall be accompanied by a certified copy of that order and of the resolution of the Joint Conference on which such order is based.

(*b*) Upon receipt of an appeal in accordance with sub-rule (*b*) the appellate authority shall appoint a time and place for the hearing of the appeal giving the appellant not less than thirty days' notice.

(*d*) The appellate authority shall also issue notices to the Regional Transport Authorities concerned on receipt of such appeal.

(*e*) The appellate authority, after giving an opportunity to the parties to be heard, and after such further enquiry if any, as it may deem necessary, may confirm, vary or set aside the order from which the appeal is preferred.

(*f*) The provisions of sections 5 and 12 of the Indian Limitation Act, 1908, shall apply to appeals preferred under sub-rule (*b*)";

that in rule 91, after the word and figure "rule 90", the words, figure and letter "or rule 90A" be added;

that consequent on the amendments to rules 89 and 90, rule 92 be deleted;

that in rule 93 (*b*), the following be substituted for item (*b*):—

"Any fire brigade, vehicle or ambulance when being used as such, and any vehicle owned by a local authority and used for municipal purposes to meet cases of emergency or of delays by reason of circumstances which could not be foreseen."

that in rule 96, the title of this rule be read as "Drivers and Conductors of Public Service Vehicles—Conduct and duties of";

that in rule 96 (*a*) (*ii*), the words "or behave in a manner likely to cause annoyance to any female passenger" be added.

Mr. PRESIDENT: Amendments moved: that—

in rule 86 (*c*), for the words "five rupees" and "three rupees" the words "three rupees" and "one rupee" respectively be substituted;

in rule 89 after the words "section 64 of the Act", the words "including an order passed on a reference made to a Provincial Transport Authority under sub-rule (*k*) of rule 71A" be inserted;

in rule 89, sub-rule (*b*) (*i*) be deleted and (*b*) (*ii*) be renumbered as (*b*) (*i*) omitting the words "and shall in that case order the appellant to deposit such fee as he may specify not exceeding fifty rupees";

in rule 90, before the words "the authority to decide an appeal" the words, figure and letter "save as otherwise provided in rule 90A" be inserted;

in rule 90, sub-rule (*b*) (*i*) be deleted and (*b*) (*ii*) be renumbered as (*b*) (*i*) omitting the words "and shall in that case order the appellant to deposit such fee, not exceeding twenty-five rupees as the appellate authority may specify";

after rule 90, the following be inserted:—

"*Rule 90A.—Permits—Inter-regional stage carriage—Appeals against order of Joint Conference*:—

(*a*) The authority to decide an appeal against all orders based on the resolution of the Joint Conference passed under sub-rule (*h*) of rule 71A in respect of matters referred to in clauses (*a*), (*d*) and (*f*) of section 64 of the Act shall be the Provincial Transport Authority or a sub-committee to be appointed by it from time to time.

(*b*) Any person aggrieved, by any such order may, within thirty days of receipt of such order prefer an appeal in writing under this rule by presenting a Memorandum (in duplicate) to the Secretary to the Provincial Transport Authority, one copy of which shall bear a court-fee stamp of one rupee and such Memorandum shall set forth concisely the grounds of objection to such order and shall be accompanied by a certified copy of that order and of the resolution of the Joint Conference on which such order is based.

(*c*) Upon receipt of an appeal in accordance with sub-rule (*b*) the appellate authority shall appoint a time and place for the hearing of the appeal giving the appellant not less than thirty days' notice.

(*d*) The appellate authority shall also issue notices to the Regional Transport Authorities concerned on receipt of such appeal.

(*e*) The appellate authority, after giving an opportunity to the parties to be heard, and after such further enquiry if any, as it may deem necessary, may confirm, vary or set aside the order from which the appeal is preferred.

(*f*) The provisions of sections 5 and 12 of the Indian Limitation Act, 1908, shall apply to appeals preferred under sub-rule (*b*)";

in rule 91, after the word and figure "rule 90", the words, figure and letter "or rule 90A" be added;

consequent on the amendments to rules 89 and 90, rule 92 be deleted;

in rule 93 (*b*), the following be substituted for item (*b*):—

"Any fire brigade, vehicle or ambulance when being used as such, and any vehicle owned by a local authority and used for municipal purposes to meet cases of emergency or of delays by reason of circumstances which could not be foreseen."

in rule 96, the title of this rule be read as "Drivers and Conductors of Public Service Vehicles—Conduct and duties of";

In Rule 96 (*a*) (*ii*), the words "or behave in a manner likely to cause annoyance to any female passenger" be added.

(The amendments were agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move—

that in rule 96 (*b*), in line 1 after the words "motor cab", the words "fitted with a taxi-meter" be inserted;

that in rule 96 (*c*), the words "in Calcutta (including suburbs)" be inserted at the beginning of the sub-rule.

Mr. PRESIDENT: Amendments moved: that—

in rule 96 (*b*), in line 1, after the words "motor cab" the words "fitted with a taxi-meter" be inserted;

in rule 96 (*c*), the words "in Calcutta (including suburbs)" be inserted at the beginning of the sub-rule.

(The amendments were agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that—

in rule 97 (*ii*), the words "and shall not behave in a manner likely to cause annoyance to any female passenger" be added;

in rule 101 (*c*), the word "the" be inserted before the words "Licensing Authority";

in rule 101 (*j*) (*iv*), the clause be omitted;

in rule 101 (*p*), the words "three months" be substituted for the words "one month".

in rules 102 (*c*) and 103 (*c*), in the third line, the words "one rupee" be substituted for "two rupees."

in rule 105 (*b*), after the word "practitioner", the words "or sanitary inspector" be inserted;

in rule 105 (*c*), after the word "health" in the 4th line and the word "officer" in the 8th and 9th lines, the words "or Sanitary Inspector" be inserted;

in rule 106 (*d*), the words "or District Board" be inserted after the word "Municipality" in line 7 and after the word "Municipal" in line 7, the words "or district board" be inserted.

Mr. PRESIDENT: Amendments moved: that—

in rule 97 (*ii*), the words "and shall not behave in a manner likely to cause annoyance to any female passenger" be added;

in rule 101 (*c*), the word "the" be inserted before the words "Licensing Authority";

in rule 101 (*j*) (*iv*), the clause be omitted;

in rule 101 (*p*), the words "three months" be substituted for the words "one month".

in rules 102 (*c*) and 103 (*c*), in the third line, the words "one rupee" be substituted for the words "two rupees."

in rule 105 (*b*), after the word "practitioner", the words "or sanitary inspector" be inserted;

in rule 105 (*c*), after the word "health" in the 4th line and the word "officer" in the 8th and 9th lines, the words "or Sanitary Inspector" be inserted;

in rule 106 (*d*), the words "or District Board" be inserted after the word "Municipality" in line 7 and after the word "Municipal" in line 7, the words "or district board" be inserted.

(The amendments were agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in rule 108 (*a*) (*v*), the words "the number of passengers and" be added at the beginning.

Mr. PRESIDENT: Amendment moved: that in rule 108 (*a*) (*v*), the words "the number of passengers and" be added at the beginning.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that—

in rule 112 (*b*), the figure "208" be substituted by the figure "209";

in rule 113 (*b*) (*ii*), the word "suppose" be substituted by the word "believe";

in rule 113 (*d*), the word "the" be inserted before the words "first or second class";

the following be substituted for rule 115:—

"Sub-section (*1*) of section 42 of the Act shall not apply to transport vehicles owned by the Communications and Works Department, Calcutta Corporation, Municipalities and District Boards and used for roadmaking and maintenance";

in rule 122 (*d*), for the words "no braking system shall be dependent upon the rotation of the engine", the words "no braking system shall be rendered ineffective by the non-rotation of the engine" be substituted;

in rule 122 (*d*), the following words be omitted from the sub-rule (*d*) and be added to the proviso:—

"and to the braking system of any trailer and of the trailing half of any articulated vehicles."

the following proviso be added to rule 124A (*a*):-

"Provided that the Registering Authority may grant a special permit for the use of radios or gramophones with or without loud-speakers in specially equipped motor vehicles used for educational or traffic purposes."

Mr. PRESIDENT: Amendments moved: that—

in rule 112 (*b*), the figure "208" be substituted by the figure "209";

in rule 113 (*b*) (*ii*), the word "suppose" be substituted by the word "believe";

in rule 113 (*d*), the word "the" be inserted before the words "first or second class";

the following be substituted for rule 115:—

"Sub-section (*1*) of section 42 of the Act shall not apply to transport vehicles owned by the Communications and Works Department, Calcutta Corporation, Municipalities and District Boards and used for roadmaking and maintenance";

in rule 122 (*d*), for the words "no braking system shall be dependent upon the rotation of the engine", the words "no braking system shall be rendered ineffective by the non-rotation of the engine" be substituted;

in rule 122 (*d*), the following words be omitted from the sub-rule (*d*) and be added to the proviso:—

"and to the braking system of any trailer and of the trailing half of any articulated vehicles."

the following proviso be added to rule 124A (*a*):—

"Provided that the Registering Authority may grant a special permit for the use of radios or gramophones with or without loud-speakers in specially equipped motor vehicles used for educational or traffic purposes."

(The amendments were agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in the proposed proviso to rule 124A (*a*), before the word "educational", the word "publicity" be inserted.

Mr. PRESIDENT: Amendment moved: that in the proposed proviso to rule 124A (*a*) before the word "educational" the word "publicity" be inserted.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that—

in rule 134 (*a*), the words "after the 1st day of April, 1941," be inserted at the beginning of the sub-rule and the following proviso be added to the sub-rule:—

"Provided that the Registering Authority may exempt any vehicle or class of vehicles from the operation of this sub-rule";

in rule 138 (*c*), the words "any bumper" be added to clause (*v*);

in rule 175 (*3*), the present sub-rule be deleted and the following be substituted:—

"In the case of trailers registered in India after the 1st day of April, 1940, the braking system shall be so constructed that it is not rendered ineffective by the non-rotation of the engine of the drawing vehicle."

in rule 176 (*a*), the word "City" be substituted for the word "region" in the second line and the words and brackets "(including suburbs)" be added after the word "Calcutta", and before the words "speed governor" in the third line the words "an effective" should be substituted for the word "a";

in rule 187, after rule 186 the following be inserted:—

"*Rule 187.—Payment of fare for hire of contract carriages.*—

(*a*) No hirer of a contract carriage shall refuse or omit to pay the legal fare for the hire of a contract carriage.

(*b*) In Calcutta, including suburbs, in the case of a motor cab the legal fare shall ordinarily be the fare shown on the taximeter. In the event of a dispute in connection with the fare, or if the hirer has reasonable grounds for believing that the meter is registering incorrectly, the hirer shall, if required by the motor cab driver, accompany him to the nearest police officer and he shall not refuse to supply his correct name and address to the motor cab driver or to the police officer";

in rule 191 (*a*), after the words "police officer" occurring in the fourth line, the words "or any officer of a district board or municipality other than a ministerial officer or a menial" be inserted;

in rule 191 (*a*) (*iii*), for the words "twenty-four hours" the words "twelve hours within municipal areas and twenty-four hours elsewhere" be substituted;

in rule 191 (*d*), after sub-rule (*c*), the following sub-rule be added:—

"(*d*)(*i*) The owner of the motor vehicle or his heirs or assigns may, within 14 days from the date of the payment referred to in sub-rule (*c*), challenge the correctness or otherwise of the amount realised as expenses incurred by the police officer under that sub-rule, by a statement in writing delivered to the Commissioner of Police, Calcutta, or to the District Magistrate, according as such payment is made in the City of Calcutta (including suburbs) or elsewhere.

(*ii*) Upon receipt of such statement, the Commissioner of Police, Calcutta, or the District Magistrate, as the case may be, shall cause such enquiries to be made as appear to be necessary to satisfy himself as to the correctness or otherwise of the amount realised as expenses of the police officer under sub-rule (*c*) and shall pass such orders thereon as he deems fit.

(*iii*) If the Commissioner of Police, Calcutta, or the District Magistrate, as the case may be, is satisfied that the amount so realised is excessive, he shall order a refund to be made to the persons submitting the statement of the amount which he considers to be in excess of the amount which such person is liable to make good under sub-rule (*c*)";

in rule 192 (*c*), after the word "vehicle" occurring in the first line, the words "not being engaged in driving or attending to any other vehicle at the time" be inserted;

in rule 192, the following sub-rule be inserted:—

"(*k*) A weighing device for the purpose of section 73 of the Act shall be tested as to its accuracy every six months by such person as may be appointed in this behalf by the Registering Authority. In the case where such device is installed and maintained by the Provincial Government, the date of the last test held under this sub-rule shall be exhibited on the device."

Mr. PRESIDENT: Amendments moved: that—

in rule 134 (*a*), the words "After the 1st day of April, 1941," be inserted at the beginning of the sub-rule and the following proviso be added to the sub-rule:—

"Provided that the Registering Authority may exempt any vehicle or class of vehicles from the operation of this sub-rule";

in rule 138 (*c*), the words "Any bumper" be added to clause (*v*);

in rule 175 (*3*), the present sub-rule be deleted and the following be substituted:—

"In the case of trailers registered in India after the 1st day of April, 1940, the braking system shall be so constructed that it is not rendered ineffective by the non-rotation of the engine of the drawing vehicle."

in rule 176 (*a*), the word "City" be substituted for the word "region" in the second line and the words and brackets "(including suburbs)" be added after the word "Calcutta", and before the words "speed governor" in the third line the words "an effective" should be substituted for the word "a";

in rule 187, after rule 186, the following be inserted:—

"*Rule 187.—Payment of fare for hire of contract carriages.*—

(*a*) No hirer of a contract carriage shall refuse or omit to pay the legal fare for the hire of a contract carriage.

(*b*) In Calcutta, including suburbs, in the case of a motor cab the legal fare shall ordinarily be the fare shown on the taxi-meter. In the event of a dispute in connection with the fare, or if the hirer has reasonable grounds for believing that the meter is registering incorrectly, the hirer shall, if required by the motor cab driver, accompany him to the nearest police officer and he shall not refuse to supply his correct name and address to the motor cab driver or to the police officer";

in rule 191 (*a*), after the words "police officer" occurring in the fourth line, the words "or any officer of a district board or municipality other than a ministerial officer or a menial" be inserted;

in rule 191 (*a*) (*iii*), for the words "twenty-four hours", the words "twelve hours within municipal areas and twenty-four hours elsewhere" be substituted;

in rule 191 (*d*), after sub-rule (*c*), the following sub-rule be added:—

"(*d*) (*i*) The owner of the motor vehicle or his heirs or assigns may, within 14 days from the date of the payment referred to in sub-rule (*c*), challenge the correctness or otherwise of the amount realised as expenses incurred by the police officer under that sub-rule, by a statement in writing delivered to the Commissioner of Police, Calcutta, or to the District Magistrate, according as such payment is made in the City of Calcutta (including suburbs) or elsewhere.

(*ii*) Upon receipt of such statement, the Commissioner of Police, Calcutta, or the District Magistrate, as the case may be, shall cause such enquiries to be made as appear to be necessary to satisfy himself as to the correctness or otherwise of the amount realised as expenses of the police officer under sub-rule (*c*) and shall pass such orders thereon as he deems fit.

(*iii*) If the Commissioner of Police, Calcutta, or the District Magistrate, as the case may be, is satisfied that the amount so realised is excessive, he shall order a refund to be made to the persons submitting the statement of the amount which he considers to be in excess of the amount which such person is liable to make good under sub-rule (*c*)";

in rule 192 (*c*), after the word "vehicle" occurring in the first line, the words "not being engaged in driving or attending to any other vehicle at the time" be inserted;

in rule 192, the following sub-rule be inserted:—

"(*k*) A weighing device for the purpose of section 73 of the Act shall be tested as to its accuracy every six months by such person as may be appointed in this behalf by the Registering Authority. In the case where such device is installed and maintained by the Provincial Government, the date of the last test held under this sub-rule shall be exhibited on the device."

(The amendments were agreed to.)

Mr. MESBAHUDDIN AHMED: I beg to move that in the proposed amendment to rule 193, for the word and figure "rule 193", the words "Ninth Schedule" be substituted and that this amendment be transferred to under amendment to Sixth Schedule.

Mr. PRESIDENT: Amendment moved: that in the proposed amendment to rule 193, for the word and figure "rule 193" the words "Ninth Schedule" be substituted and that this amendment be transferred to under amendment to Sixth Schedule.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move—

that in rule 201, the words "save in the case of a road roller" be deleted;

that in rule 202 (*a*), the words "by the District Magistrate" be deleted and the words "by the Commissioner of Police, Calcutta, in the City of Calcutta including suburbs and elsewhere by the District Magistrate" be substituted;

that for rule 203 (*b*), the following be substituted, viz.:—

"(*b*) The Commissioner of Police in the City of Calcutta (including suburbs) by notification in the official gazette and by erection of suitable notices in English and in the local script, and elsewhere the District Magistrate by notification in a local newspaper of standing and also by the erection of such notices, may prohibit the use, within such areas or in such places, as may be specified in the notification or local newspapers, as the case may be, of lamps giving a powerful or intense light";

that the following rule be inserted:—

"206B. Until the 1st day of April, 1941, the provisions of sub-section (2) of section 72 of the Act shall not apply to those motor vehicles which were registered on or before the 1st day of April, 1940";

that in the first column of the 6th Schedule, the word "and" be substituted by the word "or" in the authority specified in item 1;

that in rule 193, the words "the District of Darjeeling" be deleted from the 9th Schedule.

that in Form P. Co. S. A. for the words and figure "see rule 76 (*a*) (*iv*)"; the words and figure "see rule 67 (*a*) (*iv*)" be substituted;

that in Form P. St. S., Part A, item 20, and in Form P. St. S., Part A, item 15, for the word and figure "rule 71", the word and figure "rule 71A" be substituted;

that the rules be re-numbered serially and re-published.

Mr. PRESIDENT: Amendments moved:

that in rule 201, the words "save in the case of a road roller" be deleted;

that in rule 202 (*a*), the words "by the District Magistrate" be deleted and the words "by the Commissioner of Police, Calcutta, in the City of Calcutta including suburbs and elsewhere by the District Magistrate" be substituted;

that for rule 203 (*b*) the following be substituted, viz.:—

"(*b*) The Commissioner of Police in the City of Calcutta (including suburbs) by notification in the official gazette and by erection of suitable notices in English and in the local script, and elsewhere the District Magistrate by notification in a local newspaper of standing and also by the erection of such notices, may prohibit the use, within such areas or in such places, as may be specified in the notification or local newspapers, as the case may be, of lamps giving a powerful or intense light";

that the following rule be inserted:—

"206B. Until the 1st day of April, 1941, the provisions of sub-section (2) of section 72 of the Act shall not apply to those motor vehicles which were registered on or before the 1st day of April, 1940";

that in the first column of the 6th Schedule, the word "and" be substituted by the word "or" in the authority specified in item 1;

that in rule 193, the words "the District of Darjeeling" be deleted from the 9th Schedule;

that in Form P. Co. S. A., for the words and figure "see rule 76(*a*) (*iv*)", the words and figure "see rule 67(*a*) (*iv*)" be substituted;

that in Form P. St. S., Part A, item 20, and in Form P. St. S., Part A, item 15, for the word and figure "rule 71", the word and figure "Rule 71A" be substituted;

that the rules be re-numbered serially and re-published.

(The amendments were agreed to.)

Mr. PRESIDENT: Order, order. The Council stands adjourned till 2-15 p.m. on Wednesday.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 31st July, 1940.

Members absent.

The following members were absent from the meeting held on the 30th July, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.

(2) Mr. D. J. Cohen.

(3) Mr. Narendra Chandra Datta.

(4) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(5) Khan Bahadur Syed Muhammad Ghaziul Huq.

(6) Mr. Naresh Nath Mookerjee.

(7) Mr. Sachindra Narayan Sanyal.

(8) Khan Bahadur M. Shamsuzzoha.

B. G. Press—1940-41—7101A—750.

BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Wednesday, the 31st July, 1940, at 2-15 p.m. being the fourth day of the Second Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

The Hon'ble Khwaja Sir NAZIMUDDIN : May I suggest, Sir, that it would be convenient if you take up questions numbering 20, 26 and 27 together, because they all relate to one and the same subject, namely, the Khaksar Movement?

Mr. PRESIDENT : Yes. All of them will be taken together and then supplementaries may be put on them.

Khaksar Movement.

***20. Mr. RANAJIT PAL CHAUDHURI:** Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(a) whether he is aware that there has been in existence for the last two years more than two scores of Khaksars in the neighbourhood of Raja Bazar under the jurisdiction of the Belliaghata Police Sub-Section, in this city?

(b) if so, whether he is also aware of the periodical drill which they undergo publicly on Raja Dinendra Street near Saheb-began?

(c) whether he has taken note of the findings of the Committee that recently sat in Lahore to enquire into the Khaksar movement generally?

(d) what attitude does the Bengal Government entertain towards the movement in question?

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*Question No. 20 was not put on the 30th July, 1940, due to the absence of the Hon'ble Minister in charge.

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir NAZIMUDDIN): (*a*) Yes.

(*b*) Yes. Occasionally.

(*c*) No.

(*d*) The whole question of the treatment of volunteer organisations is under examination.

Khaksar movement in Bengal.

26. Mr. RANAJIT PAL CHAUDHURI: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether he is aware of the existence of the Khaksar movement in the Province of Bengal;

(*b*) if so, since when he has come to know of it?

(*c*) how many people there are known to be enrolled in the local organisation?

(*d*) the sources from which that movement is being locally supported; and

(*e*) the names of leader or leaders who are known to be identified with the local movement?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) 1938.

(*c*) Definite information is not available but reports indicate that there are approximately 1,500 in Calcutta and about a thousand outside Calcutta.

(*d*) So far as is known from local subscriptions.

(*e*) Mia Ahmed Shah, Fida Muhammad and Pir Moonzoor Ahmed Shah.

27. Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) the number of Khaksars who are residing in Calcutta and other parts of Bengal;

(*b*) if it is a fact that they are parading in the streets of Calcutta at night and in the Muhammad Ali Park at day time?

(*c*) if it is a fact that many members of the Muslim League are active supporters of Khaksar movement?

(*d*) what materials, if any, the Government of Bengal have for differing from the Government of the Punjab in their opinion that Khaksars form part of the Fifth Column of Germany?

(*e*) if it is a fact that Khaksars are residing in the mosques of Calcutta and Bengal;

(*f*) if the Government have any information as to how the organisation is being maintained;

(*g*) whether the Government have already taken any steps against the entry of Khaksars from outside and their recruitment in Bengal;

(*h*) if so, what are they and what further steps the Government intend to take in future?

(*i*) if not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Definite information is lacking but there are reported to be approximately 1,500 in Calcutta and a thousand in other parts of Bengal.

(*b*) and (*f*) Yes.

(*c*) I have no information.

(*d*) The information at present in my possession does not support this theory.

(*e*) and (*g*) No.

(*h*) Does not arise.

(*i*) The whole question of the treatment of volunteer organisations is under examination.

Mr. RANAJIT PAL CHAUDHURI: Arising out of 20 (*c*), will the Hon'ble Minister be pleased to state whether it is his intention to acquaint himself with the findings of the Enquiry Committee presided over by Justice Himayatullah?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, that has nothing to do with this province. That Enquiry Committee enquired into a particular incident, and I see no reason why Government of Bengal should take any notice of it.

Mr. RANAJIT PAL CHAUDHURI: If the Hon'ble Minister can bring Muhammadan candidates from outside the province——

Mr. PRESIDENT: Order, order. In a supplementary question, the honourable member can only ask for information and not advance any argument.

Mr. RANAJIT PAL CHAUDHURI: Arising out of 20 (*d*), will the Hon'ble Minister be pleased to state when was the examination of the voluntary organisations first taken up?

The Hon'ble Khwaja Sir NAZIMUDDIN : The examination has been undertaken fairly recently.

Mr. RANAJIT PAL CHAUDHURI: Was it before or after the incident at Lahore?

The Hon'ble Khwaja Sir NAZIMUDDIN : It has nothing to do with the incident at Lahore.

Dr. RADHA KUMUD MOOKERJI : Arising out of question 20(*c*), I wish to know whether the Bengal Khaksar Movement is affiliated to the general Khaksar movement operating in other parts of India.

The Hon'ble Khwaja Sir NAZIMUDDIN : Yes, Sir; it is the same organisation. It is an All-India organisation.

Dr. RADHA KUMUD MOOKERJI : If it is agreed, Sir, that the Bengal Khaksar movement is a part of the general Khaksar movement, I should like to know why the Hon'ble Home Minister is not yet in possession of facts that have been elicited by a Committee of Enquiry sitting in judgment upon the operations of the same movement in another province.

The Hon'ble Khwaja Sir NAZIMUDDIN : I do not see what connection there is between the two. If there is a riot at one place, say at Lucknow, because a Congress organisation is involved in that riot, I do not see why Government of Bengal should take up an enquiry into the Congress organisation in Bengal.

Dr. RADHA KUMUD MOOKERJI : Sir, my question has not been answered properly. Since the Hon'ble Home Minister has agreed that the Bengal Khaksar Movement is a part of the Khaksar movement operating elsewhere, I should like to know whether he does not know that serious aspersions have been cast on the whole movement including its subordinate movements operating in other parts of India. A serious aspersion has been cast on the movement in general and as a whole by a Judicial Committee of Enquiry to the effect that the movement is inspired by foreign and hostile inspirations.

The Hon'ble Khwaja Sir NAZIMUDDIN : Is the honourable member sure of the facts which he has mentioned? Will he quote the exact words and state where he got them from?

Dr. RADHA KUMUD MOOKERJI : Just now I am unable to quote the exact words, but I should like to remind the Hon'ble

Minister of the definite statement made by the Prime Minister of the Punjab to the effect that he is in possession of definite evidence to show that Khaksar movement in general has been inspired by foreign and hostile agencies.

The Hon'ble Khwaja Sir NAZIMUDDIN : Sir, I have been accused of not being able to answer the question properly, but it appears that the honourable member has mixed up the Prime Minister of the Punjab with the Enquiry Committee. It is a confusion of thought and nothing else.

Dr. RADHA KUMUD MOOKERJI: Sir, it is not a confusion of thought, if I may be permitted to say so.

Mr. PRESIDENT : Order, order. The honourable member may put further questions if he so likes. It is no use pursuing a controversy.

Dr. RADHA KUMUD MOOKERJI : If it is agreed that the Bengal Khaksar movement is a part of the general movement, I should think it is quite relevant that the Home Minister should acquaint himself with what has been said about the Khaksar movement. I want to know why he is unable to act according to the information supplied by the Committee of Enquiry sitting in judgment on the whole movement which includes also the movement in Bengal.

The Hon'ble Khwaja Sir NAZIMUDDIN : Sir, before doing so, I should like to have an All-India Enquiry Committee to go into the question of those regarding whom there were Enquiry Committees in other provinces.

Mr. LALIT CHANDRA DAS : Will the Hon'ble Minister be pleased to state whether he is aware that the Government of the Punjab rigorously put down the Khaksars there, hunted them out of the *Masjid*, put them under arrest, and threw them into the jail?

The Hon'ble Khwaja Sir NAZIMUDDIN : This is again a matter of opinion.

Mr. LALIT CHANDRA DAS : It is not a matter of opinion, but it is a matter of fact. Is the Hon'ble Minister aware of it?

The Hon'ble Khwaja Sir NAZIMUDDIN : Sir, I do not think, it is proper to discuss the action of other Provincial Governments.

Mr. LALIT CHANDRA DAS : Sir, my question is——

Mr. PRESIDENT : Order, order. It is not the primary concern of the Hon'ble Minister to know what has been done in another province and he seems not to be agreeable to accept your facts even. You say "rigorously put down". Do you mean the movement or particular members? You do not make it clear.

Mr. LALIT CHANDRA DAS : Sir, with your permission, I will again put the question. Will the Hon'ble Minister be pleased to state whether he is aware that the Government of Sir Sikander Hyat Khan put down the Khaksar movement in the Punjab?

The Hon'ble Khwaja Sir NAZIMUDDIN : Sir, this is not correct again. Again and again Sir Sikander has said that if the Khaksar movement gave up their present attitude towards the orders of the Punjab Government, he would have no hesitation in allowing the movement to continue. What I would like to know is whether the honourable member is prepared to accept everything that is done in the Punjab.

Mr. RANAJIT PAL CHAUDHURI: Arising out of 20 (*b*), what are the other voluntary organisations that are drilling and parading in public parks and streets?

The Hon'ble Khwaja Sir NAZIMUDDIN : There are innumerable organisations. I have not got a list of them. But practically every voluntary organisation drills and parades in various public places.

Dr. RADHA KUMUD MOOKERJI : Arising out of 27(*i*), I wish to know whether the Hon'ble Home Minister will see that a movement which is not approved in one province is not allowed to spread in another province.

The Hon'ble Khwaja Sir NAZIMUDDIN : Sir, I may mention that from the information in our possession, the Khaksar movement is supposed to be a non-communal organisation for social service, and as long as the movement is not carried on in a manner which is against the laws of the country, I do not see what action can be taken.

Mr. NARESH NATH MOOKERJEE : Does not the Hon'ble Home Minister consider that the Khaksar movement is a movement which can be called a pro-Government movement?

The Hon'ble Khwaja Sir NAZIMUDDIN : That is a matter of opinion.

Mr. RANAJIT PAL CHAUDHURI: Arising out of 26 (*d*), is it a fact that a member of the present Cabinet subscribed to the Khaksar movement before he became a Minister of the present Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: The question is too vague, but if the honourable member is referring to the Home Minister, I may say that he is not correct.

Mr. NARESH NATH MOOKERJEE : I feel sure that the Hon'ble Home Minister is aware that in the Punjab the Khaksar movement was treated as a Fifth Column.

Mr. PRESIDENT : Sir Nazimuddin, you are not bound to answer the question.

The Hon'ble Khwaja Sir NAZIMUDDIN : I cannot answer for the Government of the Punjab.

Mr. RANAJIT PAL CHAUDHURI: Arising out of 26 (*c*), is it a fact that Dr. Ismail Nami poses to be the leader of this movement also?

The Hon'ble Khwaja Sir NAZIMUDDIN : It may be possible. I have not got definite information at my disposal. I believe his name has appeared in the press.

Mr. NARESH NATH MOOKERJEE : Will the Hon'ble Minister be pleased to state whether the Khaksar movement has the sympathies of the present Government?

The Hon'ble Khwaja Sir NAZIMUDDIN : Sir, as I have already stated, the Government of Bengal is looking into the question of all voluntary organisations, and this is one of the voluntary organisations. There is no question of Government having any sympathy with any organisation whatsoever.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN : Has the Khaksar movement of Bengal shown any signs of breaking the laws?

The Hon'ble Sir Khwaja Sir NAZIMUDDIN : None that I know of, so far.

Khan Bahadur ATAUR RAHMAN : Is it not a fact that the Punjab Prime Minister took serious action against the Khaksar movement because they broke the law?

The Hon'ble Khwaja Sir NAZIMUDDIN : *Yes, Sir, that is so* they defied the order.

Mr. HAMIDUL HUQ CHOWDHURY : Will the Hon'ble Minister be pleased to take action to revise the wrong notion about the Punjab Government? (Laughter.)

(No answer.)

Mr. NARESH NATH MOOKERJEE : Will the Hon'ble Minister be pleased to state if he is aware that parades on a large scale and in large numbers are taking place at night daily under the auspices of the Khaksar organisation in Calcutta? If so, will he be pleased to state if permits are issued by the Police for such action?

The Hon'ble Khwaja Sir NAZIMUDDIN : If the honourable member points out what section of the Criminal Procedure Code is violated by this organisation, Government will certainly take action.

Mr. SRISH CHANDRA CHAKRAVERTI : Arising out of 27(*d*), will the Hon'ble Minister be pleased to state what is the nature of information that he has received—is it documentary or verbal?

The Hon'ble Khwaja Sir NAZIMUDDIN : I have already stated that information has been collected from papers about the organisations which they themselves printed from time to time of their constitution and other activities. I may say that it is an entirely non-communal organisation of the Muslims and other communities and is supposed to be peaceful and a supporter of Law and Order. It appears to be an entirely social service organisation having nothing to do with politics.

Mr. SRISH CHANDRA CHAKRAVERTI : Arising out of the answer just now given, will the Hon'ble Minister be pleased to state if there are other communities in this organisation, and, if so, to state their names?

The Hon'ble Khwaja Sir NAZIMUDDIN : Yes: there are other communities—Hindus, Sikhs, etc.

Mr. LALIT CHANDRA DAS : Will the Hon'ble Minister be pleased to state whether there is a notification of the Government applicable throughout Bengal prohibiting any procession without the permission of a Magistrate or Police?

The Hon'ble Khwaja Sir NAZIMUDDIN : I would refer the honourable member to the various notifications on the subject.

Mr. LALIT CHANDRA DAS : Will the Hon'ble Minister be pleased to state whether the Khaksar organisation is parading without the permission of the Police?

The Hon'ble Khwaja Sir NAZIMUDDIN : That is a question of law.

Mr. LALIT CHANDRA DAS : Sir, I want to know whether there is a notification of Government at present existing which is applicable throughout the province to the effect that no procession and parading would take place without the permission of a Magistrate or Police and whether the Hon'ble Minister is in a position to contradict me if I say that parading in the streets of Calcutta at night and at Muhammad Ali Park is allowed?

The Hon'ble Khwaja Sir NAZIMUDDIN : That is a question of law and I am not in a position to answer. If a specific question is put, answer will be given.

Mr. HUMAYUN KABIR : Arising out of 26(*c*), will the Hon'ble Minister be pleased to state what is the number of Muslims and of members of other communities that are taking part in the Khaksar movement in Calcutta?

The Hon'ble Khwaja Sir NAZIMUDDIN : I do not possess the register of the Khaksar organisation.

Mr. LALIT CHANDRA DAS : Will the Hon'ble Minister be pleased to state if there is a notification prohibiting procession and parading without the permission of a Magistrate or Police and whether the Khaksar organisation has taken that permission? If not, what action has been taken against this movement?

The Hon'ble Khwaja Sir NAZIMUDDIN : If the honourable member will put up a specific question, answer will be given.

Mr. LALIT CHANDRA DAS : Sir, my question is specific: I know that there is such a notification which is applicable throughout Bengal, namely, that no procession or parading could be taken out

without the permission of a Magistrate. Is the Hon'ble Minister in a position to contradict it? If not, will he take action against the Khaksar Organisation?

The Hon'ble Khwaja Sir NAZIMUDDIN : As I have already stated, I am not in a position to answer this. I want notice.

Dr. RADHA KUMUD MOOKERJI : With reference to the answer given just now by the Hon'ble Minister, namely, that the Khaksar movement stands for non-violence and peace, will he be pleased to state whether members of this organisation use arms for violence and whether they are equipped with arms?

The Hon'ble Khwaja Sir NAZIMUDDIN : Sir, I have never used the word "non-violence". The word "non-violence" is soon going out of the Congress dictionary. The Congress is discarding it and the members of the Congress are forgetting it as being unpracticable. The question is based on a wrong supposition.

Expenditure for the Floud Commission.

28. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state what has been the total expenditure for the Floud Commission?

(*b*) Will the Hon'ble Minister be pleased to place on the Table of the House a statement of the expenses incurred for each member by name of that Commission from the Public Exchequer?

(*c*) Do the Government propose to supply each member of the Legislature with a copy of the Report of the Floud Commission and give an opportunity of discussing it before any legislation is undertaken on the basis of that Report? If so, when? If not, why not?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) The total expenditure (up to the end of May, 1940) for the Commission was Rs. 2,28,406.

(*b*) A statement is laid on the table.

(*c*) Instructions have already been issued to the Bengal Government Press for the supply of a copy of the Report to each member of the Legislature.

Government would welcome a general discussion on the Report but not till they have had an opportunity of appreciating the implications of at least the main recommendations of the Commission.

Statement referred to in reply to clause (b) of question No. 28, showing expenses incurred for each member of the Land Revenue Commission.

	Name.	Total amount of expenditure.
		Rs.
1.	Sir Francis Floud, K.C.B., K.C.M.G. (Chairman) ..	57,889
2.	Sir Bijay Chand Mahtab, G.C.I.E., K.C.S.I., I.O.M., Maharajadhiraja Bahadur of Burdwan ..	3,706
3.	Mr. M. O. Carter, M.C., I.C.S. (Member-Secretary)	21,943
4.	Khan Bahadur Saiyed Muazzamuddin Hosain, M.L.C.	4,410
5.	Khan Bahadur Maulvi Hashem Ali Khan, M.L.A.	6,038
6.	Khan Bahadur M. A. Momin, C.I.E. ..	4,089
7.	Sir Manmatha Nath Mookerjee, KT. ..	278
8.	Dr. Radha Kumud Mookerjee, M.A., P.R.S., PH.D., M.L.C. ..	23,019
9.	Mr. Brajendra Kishore Roy Choudhury ..	4,215
10.	Sir F. A. Sachse, KT., C.S.I., C.I.E. ..	33,068
11.	Mr. Abul Quasem, M.A., B.L. ..	1,884
12.	Mr. Nuruddin Ahmed, B.L. ..	2,369
13.	Mr. Anukul Chandra Das, M.L.A. ..	2,335
	Total ..	1,65,243

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state with reference to answer (*a*), if any further expenditure is contemplated on account of this Commission?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Commission has now been dissolved and strictly speaking there is no further expenditure on account of the Commission.

Khan Bahadur ATAUR RAHMAN: Arising out of the statement referred to in answer (*b*), will the Hon'ble Minister be pleased to state why one particular member, viz., member No. 8, received Rs. 23,019 while other non-official members on the Commission got only Rs. 3,000 or Rs. 4,000?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: His honorarium is included in it. He was a whole-time member and his services were placed at the disposal of this Government by the Lucknow University.

Khan Bahadur ATAUR RAHMAN: Why was this particular gentleman imported from the Lucknow University?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Because in the opinion of Government he was eminently fit to help the Commission in their work, that was why Government had to request the Lucknow University to place the services of this gentleman at the Commission's disposal.

Khan Bahadur ATAUR RAHMAN: May I know what is his experience as a revenue officer for dealing with revenue questions?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The terms of reference of the Commission were very comprehensive and more than mere technical knowledge of revenue matters was necessary.

Khan Bahadur ATAUR RAHMAN: Was not a person of his type available in Bengal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There might have been available but certainly Dr. Radha Kumud Mookerji was considered eminently suitable for the purpose.

Mr. HAMIDUL HUQ CHOWDHURY: Was the question of appointing a Bengali considered?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Dr. Mookerji is presumably a Bengali. (Laughter.)

Bhati area of Mymensingh.

29. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Revenue Department kindly state—

(*a*) whether it is a fact that more than half the areas of *bhati* Mymensingh has gone out of cultivation on account of ravages of the early flood and water-hyacinth;

(*b*) whether it is a fact that the Director of Land Records after special enquiry found that more than half the areas of Ashtogram thana had gone out of cultivation and submitted a report to the effect to the Bengal Land Revenue Commission;

(*c*) if he is aware that the tenants of this *bhati* area have been reduced to abject poverty;

(*d*) if he is aware that 12 annas to 14 annas of the holdings of many villages of the *bhati* area have been sold for arrears of rent and purchased by the proprietors;

(*e*) whether the attention of the Rent Committee has been drawn to the special circumstances of *bhati* area; and

(*f*) what the Government propose to do for giving relief to the tenants of the *bhati* area, more than half of whose lands have gone out of cultivation for no fault of theirs?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) and (*b*) The information of Government is that the cultivation of *aman* paddy has been affected in parts of the *bhati* area by the annual floods; but *boro* paddy is being grown instead on a considerable scale.

(*c*) Some tenants are reported to have lost their lands—particularly those who relied on the cultivation of *aman* paddy—but no figures are available.

(*d*) and (*e*) No.

(*f*) The situation is due to a large volume of water from the Sylhet Hills flooding the area early in the year. The problem is primarily one of drainage and concerns the Communications and Works (Irrigation) Department. The problem is being brought to the notice of that department.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to (*b*), is it not a fact that the Director of Land Records after enquiry reported definitely that there had been no cultivation in the locality?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir, that is not a fact and the Government answer is also very definite, viz., that the cultivation of *aman* paddy has been affected in parts of the *bhati* area by the annual floods. Government do not know that more than half the area has been out of cultivation.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Might I be permitted to inform the Hon'ble Minister that I have got papers in my possession which show what was the result of that enquiry? If those papers are placed before him, will he be able to deny the position?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I am not going to deny what is contained in the papers in the possession of the honourable member, but I have based my answer on the information available to Government.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: In view of the fact that some of the tenants have lost their holdings not for any fault of their own, do the Government contemplate to do anything so that they may get back their lands?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, this question has not been considered by Government, but it is the usual feature of the land tenure system of the province that when lands become uncultivable, they have to be surrendered or made *khas*.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not the duty of the Government to see, when the tenants suffer for no fault of their own that something is done for them?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is not a practical proposition always but in particular cases it may be possible to do so.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Do the Government contemplate to do anything to ease the situation in this part of the country?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government are prepared to enquire into this matter.

Formation of Poor Committee.

30. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department kindly state—

(*a*) whether detailed instructions have been issued to Presidents of Union Boards through Circle Officers drawing attention to mandatory provisions of the Bengal Rural Poor and Unemployment Relief Act (Act X of 1939); and

(*b*) whether the Poor Committee has now been formed in every union and lists of poor and unemployed have been prepared?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Khwaja Nawab Habibullah Bahadur, of Dacca, Minister in charge of Public Health and Local Self-Government Department): An enquiry is being made in the matter and a reply will be given as soon as possible.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state when we can expect to have the report?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I cannot say definitely when it will be ready. Instructions will have to be issued to the Presidents of Union Boards throughout Bengal by the Circle Officers, and considering the fact that there are more than 5,000 union boards in the province, it will no doubt take some time to collect the necessary information.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state whether instructions have been issued to the Presidents of union boards?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: We have issued instructions already but it is not known whether they have by this time reached the hands of Presidents of union boards through Circle Officers.

Mr. ABUL QUASEM: What is the probable time that is likely to be taken in completing the enquiry and gathering the information?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: How is it possible for me to say definitely or even approximately when the whole thing will be ready? It is difficult to say that, especially because we have to collect the information from 5,000 union boards.

Taxes on commodities sold in markets.

31. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Revenue Department kindly state if he is aware that tolls or taxes are being collected by zemindars, lessees or agents on jute, condiments, eggs, wooden articles and other articles of merchandise, sold in *hats* and *bazars* of Bengal, particuarly in the district of Mymensingh (e.g., in Bhairab Bazar, Hossainpore, Gaffargaon)?

(*b*) Is it a fact that by article VII (*2*) of the proclamation and section 35 of Regulation VIII of 1793, the previous practice by which zemindars used to levy tax and other internal duties or taxes on merchandise in *hats*, *ganjas* and *bazars* of Bengal was prohibited?

(*c*) If the reply to (*b*) be in the affirmative, do the Government propose to issue a communique drawing attention of all landholders that realisation of toll in merchandise is illegal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The information on all the points are being collected and will be furnished as soon as possible.

Appointment of the teacher of Physics and Chemistry in the Jalpaiguri Medical School.

32. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department kindly state how many applications have been received by him in response to his advertisement in the *Calcutta Gazette*, dated the 25th April, 1940, for a teacher of Physics and Chemistry in the Jalpaiguri Medical School?

(*b*) What amount of fee has been realised by Government from the candidates for filing the applications?

(*c*) Is it not a fact that many desirable candidates are debarred from filing applications on account of their inability to meet this fee?

(*d*) From what time is the system of levy of such a fee introduced?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): The information has been asked for from the Public Service Commission and a reply will be given as soon as it is received.

Appointments to the posts of Analysts, Bengal Public Health Department.

33. Khan Bahadur SAIYED MUAZZAMUDDIN HOSSAIN: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department kindly state—

(*a*) whether out of 12 posts of Analysts, Bengal Public Health Department, only two are held by Muslims and ten by Hindus;

(*b*) whether out of the ten Hindu Assistant Analysts, only one is a Bachelor of Medicine and all others are Bachelors of Science;

(*c*) whether of the two Muslim Assistant Analysts one is a Master of Science and the other is a Bachelor of Medicine; and

(*d*) whether sufficient number of Muslim B.Sc. graduates were not available when the posts of Assistant Analysts were filled up?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Public Health and Local Self-Government Department): (*a*) There are eleven permanent posts of Assistant Analysts under the Bengal Public Health Department of which nine are held by Hindus and two by Muslims.

There are also two temporary posts of Assistant Analysts of which one is held by a Hindu and the other by a Muslim.

(*b*) Yes.

(*c*) Of the two permanent Muslim Assistant Analysts one is a Master of Science and the other a Bachelor of Science. The temporary Muslim Assistant Analyst is a Bachelor of Medicine.

(*d*) Except in the case of the appointment made on 9th December, 1939, the vacancies in the cadre of Assistant Analysts were not advertised and so it cannot be definitely stated now whether a sufficient number of Muslim Science graduates were available or not when the vacancies were filled up and except the two appointments made in March, 1938, and December, 1939, all the other appointments were made before July, 1930.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not a fact that even before 1930, 33 per cent. was the proportion fixed for Muslims in all services?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir. Speaking from memory, that is a fact.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not a fact that 2 out of 11 is far less than 33 per cent.?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, that is a matter of arithmetic, and I think my friend can work it out better than myself.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Does the Hon'ble Minister contemplate to make up that deficiency now?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: How? By driving the Hindus out?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: No; not by driving, but by taking more than 50 per cent. in making appointments.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the communal ratio rules are there, and unfortunately they do not allow Government to increase the ratio by more than 50 per cent.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not a fact that the communal ratio previously fixed was also broken?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Not by the present Government at any rate.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state why no advertisements were issued with regard to the appointments in March 1938?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it was the previous Government that made the appointments. All the appointments referred to were made before July, 1930. It is very difficult for me to answer at this distance of time.

Mr. HUMAYUN KABIR: I do not believe that there was another Government in March, 1938. I believe the Hon'ble Minister was a Minister in March, 1938. I am referring to March, 1938. Why no advertisements were issued with regard to the appointments in March, 1938?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Advertisements were issued in March, 1938.

Mr. HUMAYUN KABIR: But the answer given says "No". It says "Except in the case of appointments made on 9th December——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Unfortunately, the answer is not very clear, I admit. But it refers to the appointments made before July, 1930. Only two appointments have since been made—one on 9th December, 1939, and the other in March, 1938.

Mr. HUMAYUN KABIR: That is not the answer. If I might clear the point, two appointments were made—one in March, 1938, and one on 9th December, 1939, and for the appointment in December, 1939, the post was advertised, but for March, 1938, it was not advertised. My question is why it was not advertised in March, 1938.

Mr. PRESIDENT: I see the difficulty of the Hon'ble Minister who is not in charge of the department. I think it is always desirable, when a particular Minister in charge of a Department cannot be present, to inform the President and the Chair will be glad to postpone that question.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir; I cannot answer off-hand why only on one occasion the vacancies were advertised.

The Raigram bridge on Dwaraka river.

34. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state when the earthwork on the two ends of the Raigram bridge on Dwaraka river was completed last year?

(*b*) Was it not immediately before the approach of the rainy season when the flood was expected?

(*c*) What was the total approximate cost of such earthwork?

(*d*) What is the loss due to damage by washing away of the loose earth done in the wake of rains?

(*e*) Why was this earthwork so belated?

(*f*) Was it not possible to do this work earlier in the season?

(*g*) With this experience why is the earthwork done again on the approach of the rains?

(*h*) Is there no apprehension of the repetition of the loss?

(*i*) Who are the contractors of the structure of the bridge?

(*j*) Is the bridge being extended on both ends?

(*k*) When was the contract of this extension given?

(*l*) Why did not the contractor take up the work in time to complete it before the rains?

(*m*) Does the Hon'ble Minister expect that the work will be finished before the rains?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) Before the approach of the rainy season.

(*b*) The flood was abnormal and unprecedented and could not be anticipated.

(*c*) Rs. 9,500.

(*d*) If I am right in presuming that the honourable member is thinking of earthwork washed away at the ends of the bridge, the answer is about Rs.650.

(*e*) and (*f*) It was not possible to do the work earlier as the ends of the bridge had to be kept open in the interest of work to facilitate the construction of the end trestle piers of the bridge itself.

(*g*) and (*h*) As the waterways have since been increased by providing additional spans at each end of the bridge, the chances of the earthwork again being washed away has been lessened. The new earthwork is also being covered by a protective mattress, etc. The work is being expedited so that the public may use the bridge as early as possible.

(*i*) Messrs. Braithwaite, Burn and Jessop.

(*j*) Yes.

(*k*) January, 1940.

(*l*) The contractors started fabrication of steel immediately on receipt of orders. War conditions hampered the progress of work to a great extent.

(*m*) It is expected that the bridge will be completed by the 15th August, 1940.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state if there was any time-limit in the contract to complete the work?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: No, Sir.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state why such time-limit is not enforced when a contract is given?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, there are several forms of contract which are in use in this Department. There is one form where there is time-limit, but in others there are no time-limit. If there be a time-limit clause, Government may also be held responsible for damages if the work has to be suspended for some reason or other. That is why that form of contract is now very very rarely used. Speaking about the case which my friend has in mind, there has been no inordinate delay.

Adjournment Motion.

Mr. PRESIDENT: The Chair has received notice of an adjournment motion from Mr. Krishna Chandra Roy Chowdhury which reads as follows:—

"This House do adjourn to discuss a definite matter of urgent public importance, viz., the policy of the Government in arresting indiscriminately *bonâ fide* labour leaders, such as, the arrest of Jamini Mohan Ghose, an employee of the Popular Printing Works at about 3 p.m. to-day, the 30th July, 1940, and thereby undermining the Trade Union Movement of Bengal."

Is there any objection to leave being granted to the honourable member to move the adjournment motion?

The Hon'ble Khwaja Sir NAZIMUDDIN: May I point out, Sir, that it is not in order for the reason that as one swallow does not make a summer, one illustration does not mean that there is a systematic policy of Government. Then, again, Sir, in this particular case, the person has been arrested and is going to be prosecuted. If the case has not already been placed before the court, it will be done in a day or two, and is likely to be *sub judice*. The man has been arrested for commission of a definite offence, and therefore I submit, Sir, that this cannot be the subject of an adjournment motion.

Mr. PRESIDENT: Mr. Roy Chowdhury wants to criticise the policy of Government in arresting indiscriminately *bonâ fide* labour leaders.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: My object is not to bring a censure on the Government but to help it to declare its policy and to allay the apprehensions of *bonâ fide* Trade Union leaders who are working constitutionally and are neither fifth columnists' nor communists nor fascists.

Mr. PRESIDENT: The honourable member wants to discuss the policy of Government in arresting indiscriminately *bonâ fide* labour leaders, and illustrate his allegation by giving an example of a particular man who has been arrested.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the honourable member has to make a statement in support of what he alleged. He referred to "indiscriminate policy of Government" and cites as an illustration a case which has nothing to do with that policy. He has not given any names to show that such and such leaders have been arrested. I submit that the honourable member has not been able to give the names of even two or three *bonâ fide* trade union leaders who have been arrested by Government. The policy must be shown before it becomes a question of urgent public importance.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: May I be permitted to say that when I was in this House yesterday, I received a telegraphic message from a trade union organisation mentioning his name. I have been reading in the papers certain names about whom I do not know much. Later, I received another list in which these names figure, viz., Debendra Nath Sukul, Acting President of the Budge Budge Jute Workers Union, a registered Union, and so on and so on.

Mr. PPRESIDENT: How many of them?

Mr. KRISHNA CHANDRA ROY CHOWDHURY: In this list there are four. There is a Muslim gentleman. I can give his name also.

Mr. RANAJIT PAL CHAUDHURI: Is he a Khaksar?

Mr. PRESIDENT: Order, order.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: This is not a light matter. The arrest of people who are really honest trade unionists is not a light matter.

Mr. PRESIDENT: Mr. Roy Chowdhury's purpose is to draw the attention of the House to the policy of Government in arresting indiscriminately *bonâ fide* labour leaders and has cited a case as an illustration of that policy. I appreciate the point raised by the Hon'ble Home Minister. A similar matter was discussed in the Central Assembly where the question of *sub judice* was raised. A member sought the adjournment of the House in order to discuss the arrest of

certain leaders of the non-co-operation movement for the purpose of prosecution and on the Government opposing it on the ground that the matter was *sub judice*, the President held that if it was a matter clearly "*sub judice*", then it would be the duty of the Chair to forbid any discussion of the matter even if it was the strong desire of the House to do so. But here the motion is directed against the policy of Government and the particular case cited by him is merely illustrative. If I do not allow Mr. Roy Chowdhury to go into the merits of that case but restrict him only to the discussion of the Government's policy, what objection Government may have against this motion?

Mr. A. F. STARK: May I submit, Sir, that (1) the motion must be definite, that it must specify a number of trade union leaders, and (2) that it must be urgent in this sense that the arrests must have taken place within a short period of time from the date when the motion is brought up. Now, I understand that these arrests have been going on for many months, and if the honourable member wishes to raise the question in the House, he should do so by an ordinary resolution. On the other hand, if there were a number of arrests taking place at the same time, say yesterday, then he could raise the matter by a motion for adjournment as a definite matter of urgent public importance.

Khan Bahadur NAZIRUDDIN AHMAD: May I submit one point? The point in this adjournment motion is the policy of Government. Subsidiary to this is the indiscriminate arrest, and it is said that the matter is urgent. I submit that the policy of Government cannot be urgent. It is rather the indiscriminate arrest that may be urgent. So, by tacking the word "indiscriminate" with the policy of Government, a wider question has been raised. But I think it is possible to separate the one from the other, and consider them singly. On the matter of policy apart from the arrest nothing can be proved, nothing is tangible. So, in these circumstances——

Mr. PRESIDENT: Order, order. I should say, the word "urgent" is not to be interpreted in its dictionary meaning but in the parliamentary sense, which means if a matter comes out as an emergency. The honourable mover has used the word "indiscriminate" in his resolution, and if he can prove that, then really the urgency is made out.

Khan Bahadur NAZIRUDDIN AHMAD: So, it would seem that the word "policy", though dominating in the motion in a grammatical sense is rather subordinate to the idea of "indiscriminate arrest". The policy of the Government is thus really a subsidiary matter though purporting to be the dominating idea. This is the real difficulty in the motion.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I support the points raised by the two previous members, particularly Mr. Stark, that the motion as it stands rather vague. But there is another new point which I want to place before the House and that is that before an honourable member brings anything before this House he must satisfy himself about the facts of the case.

As we have already heard just now, he has given notice of this motion on the ground of indiscriminate arrests which however, as he subsequently admits, are based on the telephonic report of the arrest of a particular person. He knows nothing about those persons excepting the fact that one of them is the president or secretary of a labour union. He has no other information at his disposal. Therefore, I submit that it would not be proper to allow this motion to be discussed until the honourable member is able to furnish further information on the subject.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: In view of what the Hon'ble Minister has said, I desire to withdraw this motion but shall put a short notice question.

Mr. PRESIDENT: As the honourable member does not press his motion, we pass on to the next subject.

The Bengal Shops and Establishments Bill, 1939.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that the Bengal Shops and Establishments Bill, 1939, as reported by the Select Committee, be taken into consideration.

Mr. PRESIDENT: Motion moved: that the Bengal Shops and Establishments Bill, as reported by the Select Committee, be taken into consideration.

Mr. W. B. C. LAIDLAW: Mr. President, Sir, I would open my remarks on the Bengal Shops and Establishments Bill by offering a word of congratulation to Professor Humayun Kabir on the introduction of this measure of which his Shops Bill was the precursor. He has the satisfaction of knowing that the Bill to which he gave so much time and thought has been treated as the model on which this measure is based in so far as it deals with shops. This House has the satisfaction of knowing that it has prevailed upon Government to legislate for the closing hours of shops, a most desirable object and one which has received attention in many socially advanced countries. This Bill is, in so far as it deals with shop-keepers, an example of the working of the

Provincial Autonomy part of the Constitution; an example indeed of the working of democracy; a demand from an important class of workers for social justice, constitutionally brought before Government, displayed for criticism to the public, and now finally being designed to meet public needs; an example of Government of the people, by the people, for the people.

The Bill now before us however differs in one important respect from that which was originally mooted. It seeks to regulate hours and holidays of a class of workers who have not asked for such regulation so far as revealed in any question, Bill or resolution which I can remember in this House. I refer to the sections dealing with Commercial Establishments.

If the demand for bringing commercial establishments into this Bill was the result of a widespread demand from the workers themselves, of a social injustice which had to be righted, then, so far as practicable, we on this side would have had some sympathy with the Hon'ble Minister's object in thus tampering with what was originally a private member's measure. We know of no such demand, on the contrary, our view is that employees of commercial establishments generally prefer to work under the present conditions of "*laissez faire*" and not to be subjected to any degree of rigidity. Fixed hours of work tend to involve penalties of one kind or another for contravention of the hours, and as you know, a high percentage of clerical staffs live outside Calcutta. Under present conditions an employer can be lenient with cases of occasional lateness, and should clerks have appointments in town after office, or wish to avoid the heat or a heavy monsoon shower by waiting in office till after sunset, employers are usually prepared to allow the expenditure on lights and fans thus incurred. Employees appreciate these facilities, but as will be seen when the Bill is under consideration, clause by clause, no employer in a commercial establishment will be in a position to allow that leniency in the matter of office hours, which is one of the attractions of clerical employment; for to depart from a rigid system would be to risk incurring heavy penalties, which, as the Bill stands at present, may run to imprisonment. The clerk will be relegated in the matter of working hours to the position of the factory worker. Furthermore, there is a definite limit of daily hours of work beyond which man's brain will not function efficiently; and clerical work is essentially brain work. The hardest of employers know this and they know that to force clerks to work continuous long hours and not to allow some latitude in the matter of holidays and casual leave is to court expensive errors and omissions. By the nature of the work there is between the employer and the salaried clerk a high degree of trust, which contributes much to the attraction of a clerkly post and we would not support any form of legislation

which tended to vitiate this state of affairs. It may be that the Minister in charge has seen offices at work late at night, but this does not mean that the employees are in any sense being slave-driven; assistants in a bank, for example, may be at their desks till a late hour not working, but waiting while one section traces an error which must be found before the books can be closed for the day. Again, it is the custom in some businesses that the day is spent in the market and clerical work is not started until a late hour; the sight of offices alight at 9 o'clock, which has spurred the Hon'ble Minister to this interference with Professor Humayun Kabir's Bill, is therefore not in itself a social evil to be stamped out at the expense of employers and employees of the majority of offices working normal hours.

In passing, let me draw the attention of the House to the exception of the Reserve Bank and of Government offices from the provisions of the Bill. Where is the logic which differentiates between the work of a Reserve Bank employee from an employee of a scheduled bank or the accounts clerk dealing with the Hon'ble Minister's budget and the merchant's ledger-keeper?

The social evil which the Bill aims to alleviate arises because it pays the shop-keeper to keep his doors open to the public as long as possible; he thus meets public convenience and every few minutes a sale is effected. Thus, every hour longer, which he can keep open until the public is a-bed, means so much more gross profit to meet his overheads; this is a different thing altogether from keeping a commercial office open longer than the usual seven or eight hours. The amount of additional business so obtained is negligible, and the only object in working long hours is to reduce the number of staff and the resultant saving of expenses. In the one case long hours are directly productive of more gross profit, in the other merely some small reduction in cost at the expense of the efficiency. I hope the House will not feel that I am labouring this point. I want it to be understood why we regard the introduction in the Bill of commercial establishments as an unwarranted and illogical effort to tamper with a private member's Bill which, in itself, we regarded as excellent.

I am fortified in this argument by the Hon'ble Minister's Statement of Objects and Reasons. This is not reproduced along with the document now before us and, with your permission, Sir, I will read it out. "Owing to unrestricted competition amongst shop-keepers, particularly in the municipalities, the shops are kept open until unreasonable hours and shop assistants are called upon to attend in these shops for unlimited hours to the great detriment of their health. Government feel that a measure forbidding the transactions of business in shops after a certain hour will be welcome by shop-keepers and sellers, and will afford very necessary relief to the shop assistants—

Provision therefore has been made in this Bill for closing the shops at 8 p.m. at night and for limiting the hours of work per week for a shop assistant. Further, every shop is required to close for a day and a half every week. Special provision has been made for commercial establishments and for restaurants and places of amusement."

The honourable members will observe that my reasoning is sound, for the Objects and Reasons refer only to unrestricted competition and unlimited hours in the case of shops. The need for regulation of shop hours was first brought to the notice of the Ministry by Professor Humayun Kabir at the end of 1937 and all that the Ministry have to show for nearly three years' delay is the introduction of a new and wholly unwarranted principle, a principle which they cannot even explain in their Statement of Objects and Reasons.

Let me say what the Hon'ble Minister in charge of the Department of Commerce himself said on the subject. It is contained in the proceedings of the first Conference of Labour Ministers. I do not want to take more time of the House in reading it. I may tell you that in those proceedings he has only referred to shops and shop-keepers but nowhere has he mentioned of any commercial establishment. It was unfortunate that the Hon'ble Minister in charge of the Department was indisposed when the Bill was first introduced, and you will remember that the Hon'ble Sir Nazimuddin moved for reference to a Select Committee. In so doing he referred to the need for regulating shop hours; there was no mention of commercial establishments. He also gave out that the Bill would be republished for obtaining opinion; and since the opinions so obtained are not available to honourable members, I must tell you that I have not seen one single statement from any reliable authority giving grounds for interfering with commercial establishments in a Bill which the House has been led to regard as a Bill for putting a stop to the existing hardships suffered by shop assistants.

After over two years' waiting for something to be done on the basis of Professor Humayun Kabir's original Shops Bill the House was naturally anxious that the action of Government should, in introducing a new principle, not operate further to delay matters, and the Bill was referred to a Select Committee; but now that it is again before us let us consider the introduction of this new principle afresh in the light of Khan Bahadur Naziruddin Ahmad's words on 11th December, 1939: "Matters of detail can certainly be taken up in the Select Committee; but if there are difficulties of a more fundamental nature they cannot very well be cured in the Select Committee."

Again the House will have to consider the expense involved in keeping an all day and all night watch over the doings of commercial establishments, not only in this city but all over the Province to which,

under clause 1, the provisions can be extended; and the House will judge whether the vast army of inspectors required would be better occupied in interfering with businesses on which the country's economic progress depends or in engaging themselves in fostering the spread of free Primary Education. And furthermore, the House will consider the inexplicable omission in a measure of this kind of all reference to employment of juveniles.

I give the House these examples of the lack of application over a period of nearly three years which has characterised the production of this document, and I ask the Hon'ble Minister to consider very carefully now whether he would not be well advised to concentrate his mind on the provisions aimed at alleviating a recognised social evil, to drop the commercial establishment clauses and to give us the Bill which the House first gave to him.

I do not want the House to gain the impression that we as a group take exception to the inclusion of commercial establishments because it affects our business. The House will be aware that conditions in Clive Street establishments are generally good, better even than the Bill envisages. There is no demonstrable social evil which this group would not be foremost in denouncing; but we will never stand for what amounts to an unwarranted interference with the conduct of the trade of the Province.

Another matter to which, as Members will observe from my Minute of Dissent, I take exception is the holidays clause affecting shops and establishments. We in this group feel that those responsible for the economic welfare of the Province should bear in mind the enormous handicap to trade from which the Province suffers in comparison to other enlightened countries from the continuous interruption of business through religious and other festivals. Added to 52 Sundays and half holidays, seldom a month passes without several Chamber and Government holidays, and in these days of intensive economic development it ill-becomes enlightened social leaders to add to Bengal's existing handicaps in this respect.

The penalty clause and other points will require considerable revision before we can regard the Bill as a workable Act; but subject to the foregoing remarks, we welcome the introduction of legislation to regulate the working hours in shops.

Mrs. K. D'ROZARIO: Mr. President, Sir, it gives me great satisfaction to rise in support of this Bill which embodies measures long overdue, and if there is any criticism to offer it is that it has not gone further. One would like to have seen some attempt made to safeguard security of service, although this is admittedly difficult, and in a large number of cases perhaps impossible of achievement. I would pare-

cularly like to stress my approval of the clauses, limiting the hours of work, and enforcing minimum periods of leave annually. As regards hours of work, I feel that they are still too long, but perhaps they may be allowed to remain thus at this stage, and until we gain experience of the practical results of the working of this Act. The annual leave periods are undoubtedly generous, when judged in terms of existing practice, and perhaps many establishments will find it difficult to abide by them. But I would strongly deprecate attempts to whittle them down on this score. I am convinced that the salutary results of greater leisure to the employee must redound to the ultimate benefit of the employer in increased efficiency, and better will, so that, apart from the humanitarian aspect of this piece of legislation it should commend itself to us for its sheerly beneficial effects on the tempo of business and commercial life.

Sir, much criticism of this Bill has been based on the ground that its provisions cut across age-old practice and tradition in this country. This is a familiar theme with all opponents of reform in any direction, but I hope this House will give it no countenance. It sounds to me very much like saying that evils should be perpetuated in virtue of the fact that they exist. The duty of this House in sponsoring all ameliorative measures for the poor and weak is clear. Nor can we be misled by the suggestion that anything contained in this Bill is calculated to place employers in a position of disadvantage with respect to their servants. The latter are all too dependent on the former for their very existence, and the idea that any provision of this Bill gives the employee an upper hand is pure nonsense. This Bill has for its object the securing by statute, of a fair deal from the employer to persons who make the running of his business possible.

It is, Sir, at once humanitarian and wise, and as such it has my hearty support.

Mr. NUR AHMED: Mr. President, Sir, I rise to support the motion for the consideration of the Shop Assistants and Establishments Bill, 1940. Sir, of course I must admit that this is a new sort of legislation which is about to be introduced in Bengal, and it is new not only in Bengal but the whole of India. Only recently Bombay passed a similar legislation but it has not been enforced as yet. A comparison of the provisions of that Act with those of the Bengal Bill will show that the provisions of the Bengal Bill are more revolutionary and far-reaching than those of Bombay.

It is an admitted fact that the country is now passing through a period of trade depression and dislocation of commerce and trade and we must not launch any legislation which will go to interfere with trade and commerce. There is of course a demand for such legislation,

but how far these provisions of the Bill would meet the demand, how far the provisions of the Bill would prove really beneficial to those for whom it is meant, that still remains debatable. So, I appeal to the members of this House to consider this Bill very carefully so that we may not commit any mistake which may go to stifle the trade and commerce of this country instead of improving the lot of the shop assistants.

With these few words, I support the motion for consideration.

Mr. HUMAYUN KABIR: Mr. President, Sir, I had first thought that speeches on this Bill would take place at the time of the third reading and to-day we would proceed straight with the business of discussing the Bill, but since speeches have been made I will make one or two remarks. At the very outset I should like to express my very sincere appreciation of the words which have fallen from the lips of Mr. Laidlaw. I am very grateful indeed for the remarks which he has made with regard to me. But, at the same time, I want to say that if it had not been for the co-operation of the Hon'ble Minister concerned at least in the later stages, this Bill could not have been worked out as quickly as we were able to. I confess that for the first year and a half, we met a certain amount of coldness from the Ministry with regard to this Bill, but afterwards the Ministry did take it up and proceeded quickly with the matter, and for that we have to thank very largely the Hon'ble Minister concerned.

With regard to the extension of the principle, I feel that I cannot entirely agree with my honourable friend who started the discussion of this Bill, and I think that the extent to which the scope of the Bill has been extended is necessary and perhaps the Hon'ble Minister is justified in bringing in the case of a class of workers who may not have made as much representation as shop assistants, but nevertheless whose conditions of work also are very bad at times. The honourable speaker made it clear in his remarks that so far as the establishments with which he is concerned are concerned, these establishments do not suffer from any of the defects or disabilities which are pointed out in this Bill and are sought to be remedied there. In that case, the Bill does not effect him, but at the same time, I think he will not be able to deny that there are other establishments where there is sweated labour. If businessmen always proceeded on the principle which he laid down, that the businessmen cannot afford to drive employees because otherwise they will make mistakes and those mistakes will prove costly affairs, I think conditions of business would have been very much better than they are to-day. That principle is certainly salutary, and yet at the same time it cannot be denied that the principle is often violated, and businessmen realise their mistakes

when it is too late, at least so far as the employees of their establishments are concerned. I do not propose to take much longer time at this stage, and I would only say that so far as the extension is concerned, we will certainly pay the greatest attention to the arguments which have been advanced by the honourable initiator of the discussion, but at the same time the House should consider the plight of these workers and should not dismiss their grievances simply because they have not been put forward in as organised a manner as might have been expected or was perhaps desirable.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, it is difficult for me at this stage to comment on the criticisms of members, who are supporting the motion for consideration. If the House desires during discussion that commercial establishments should be excluded from the Bill, or that the holidays which have been provided in the Bill should be curtailed, or that the amenities which have been provided in the Bill should be altered, that is for the House to decide; it is not for me at this stage to offer any comments on the advisability or otherwise of these suggestions. We shall take them up when they come up for the consideration of the House, one after another. I was glad to find that Professor Humayun Kabir was not quite taken in by the blandishments of Mr. Laidlaw. The real reason, why Mr. Laidlaw praised Mr. Humayun Kabir for the introduction of this Bill was to give force to his point that Mr. Humayun Kabir had left out the commercial establishments from this Bill and that they should not have been inserted in the Government Bill. I think Mr. Humayun Kabir let down Mr. Laidlaw very nicely, gently and gradually. As to what will ultimately happen I am not in a position to forecast, but let me tell Mr. Laidlaw that there is a very radical difference between Reserve Banks and Government on the one hand and commercial establishments on the other, inasmuch as Government and Reserve Banks may and are in a position to control the hours of work of their employees.....

Mr. W. B. C. LAIDLAW: On a point of personal explanation, Sir. What I said was regarding the difference between Reserve Bank employees and employees of Scheduled Banks.

The Hon'ble Mr. H. S. SUHRAWARDY: .....and are answerable to public opinion, whereas commercial establishments and Scheduled Banks are not. For instance, we can make orders ourselves and we can hardly prosecute ourselves. Incidentally, we can make orders ourselves regulating the hours of work of our employees, and we shall see to it that they are observed. Unless there is a legislation, there is no such liability on Scheduled Banks to regulate their hours of work

too within reasonable proportions. It is for this reason that Bills of this nature that interfere with the doctrine of *laissez faire* do not include Government establishments and establishments under the control of Government. This aspect of the question is somewhat elementary.

Now, Sir, Mr. Laidlaw has pointed out to this House that there is no reference to the employment of juveniles in this Bill, from which he infers that we have not considered the various provisions of this Bill carefully and have put up a haphazard piece of legislation. Mr. Laidlaw has derived his ideas regarding juveniles from the Bombay Bill which all of us have read very carefully and many of whose provisions are embodied in this Bill which I have introduced in this House. If I have not put in juveniles in this Bill, I have done so not inadvertently and not as a piece of slipshod legislation but because it is going somewhat too far for the present state of our shop-workers. I would like to see this Bill in operation first before we go further ahead. It has not been left out inadvertently but it has been deliberately left out by me and I shall continue to watch the situation and see whether it is necessary to include juveniles within the purview of this Bill at some later stage.

I have nothing more to say except that I appreciate the good wishes of those honourable members who are supporting the motion that this Bill be taken into consideration.

Mr. PRESIDENT: The question before the House is: that the Bengal Shops and Establishments Bill, 1939, as reported by the Select Committee, be taken into consideration.

(The motion was agreed to.)

Mr. PRESIDENT: Consideration of this Bill, clause by clause, will be taken up on Monday.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I have just received the consolidated list of amendments and I hope your decision to postpone the consideration of the Bill till Monday will give ample time to examine them.

Mr. PRESIDENT: Order, order. The House stands adjourned till 2 p.m. on Friday, the 2nd August.

Adjournment.

The Council then adjourned till 2 p.m. on Friday, the 2nd August, 1940.

Members Absent:

The following members were absent from the meeting held on the 31st July, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.

(2) Mr. D. J. Cohen.

(3) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(4) Mr. Mohamed Hossain.

(5) Khan Bahadur Syed Muhammad Ghaziul Huq.

(6) Alhadj Khan Bahadur Shaikh Muhammad Jan.

(7) Khan Bahadur M. Shamsuzzoha.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 2nd August, 1940, at 2 p.m. being the fifth day of the Second Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

Mr. PRESIDENT: To-day has been specially fixed for the election of the Deputy President; so there will be no questions.

Adjournment Motion.

I have received notice of an adjournment motion from Mr. Nur Ahmed which reads as follows:—

"That this House do adjourn its business to discuss a definite matter of urgent public importance, viz., the unsatisfactory answer given in reply to question No. 7 of this Session regarding the grievances of the people of Chittagong relating to oppression of Reserve and Protected Forest Department in Chittagong."

Will the honourable member satisfy me as to how the matter may be regarded as urgent?

Mr. NUR AHMED: Sir, as I have just been informed by the Hon'ble Minister in charge of the Department that the matter is soon going to be enquired into, I do not like to move my motion.

Mr. PRESIDENT: The honourable member should in future take more care to ascertain matters before he gives notice of a motion for adjournment, because the Council Department had to spend much time unnecessarily on it. He had given notices of seven questions and five resolutions on this subject during the last two years, and it is inconceivable how this matter could be pressed as urgent.

Election of Deputy President.

I have to inform the House that altogether five nomination papers in connection with the election of the Deputy President of the Bengal Legislative Council were received by the Secretary of the Council up-

1 p.m. yesterday. I read the names of the candidates together with their proposers and seconders which are as follows:—

(1) Begum Hamida Momin—Proposed by Mrs. K. D. Rozario and seconded by Mr. W. B. G. Laidlaw; further proposed by Khan Bahadur Ataur Rahman and seconded by Mr. Ranajit Pal Chaudhuri.

(2) Khan Sahib Abdul Hamid Chowdhury—Proposed by Mr. Moazzamali Chowdhury (*alias* Lal Mea) and seconded by Maulana Muhammad Akram Khan; further proposed by Mr. Kader Baksh and seconded by Khan Bahadur Mukhlesur Rahman.

(3) Mr. Humayun Kabir—Proposed by Mr. Altaf Ali and seconded by Mr. Srish Chandra Chakraverty.

I may inform the House that all the nomination papers were found to be in order after scrutiny. Begum Hamida Momin, one of the candidates, has since then intimated in writing withdrawing her candidature from the contest.

Mr. HUMAYUN KABIR: Sir, if I have the permission of my proposer and seconder, I would also like to withdraw my candidature for Deputy Presidentship of the Legislative Council.

Mr. PRESIDENT: Is there any objection to the withdrawal of his candidature?

Mr. ALTAF ALI: No objection, Sir.

Mr. SHRISH CHANDRA CHAKRAVERTY: No objection, Sir.

Mr. PRESIDENT: Now there is only one candidate and Khan Sahib Abdul Hamid Chowdhury is therefore declared duly elected.

Felicitations to Deputy President.

Mr. HUMAYUN KABIR: I would like to be the first to congratulate my friend Khan Sahib Abdul Hamid Chowdhury on his election as Deputy President of this House. The fact that no contest has been necessary proves his popularity. I am sure that in the discharge of his duties he will maintain the same popularity and thereby add to the credit of this House.

Mr. PRESIDENT: I congratulate Mr. Abdul Hamid Chowdhury on his election as Deputy President of this House. Although the duties of the Deputy President may not be onerous, they are nevertheless

responsible, because he will have to function as the *ex-officio* Chairman of the House Committee, Privilege Committee, etc. I am confident that he will discharge his duties in an able and impartial manner.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, from this side of the House, I associate myself with the observations that you have just made and I offer my sincerest congratulations to the Khan Sahib on his election as Deputy President of this House.

Mr. KAMINI KUMAR DUTTA: Sir, on behalf of the Congress Party I associate myself with what has been said by you and by the other speakers in congratulating Khan Sahib Abdul Hamid Chowdhury on his uncontested election as Deputy President,—a fact which shows the absolute confidence which he enjoys in this House. I wish him all success.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I beg to associate myself not only on my own behalf but also on behalf of the party to which I have the honour to belong in congratulating my friend, Khan Sahib Abdul Hamid Chowdhury, on his election as Deputy President of this House. We have been working here for more than three years and we have confidence in his ability. We have seen that he has courage of his convictions and what he thinks to be right he tries to carry out in spite of severe opposition from his party. We have had examples of this in the past. I wish him all success in his new office.

Mr. KADER BAKSH: Sir, I associate myself with the observations made by the gentlemen who preceded me. Sir, the unanimous election of my friend, Khan Sahib Abdul Hamid Chowdhury, as Deputy President shows the confidence that the House has got in him. I have no doubt that my friend the Khan Sahib will fulfil the expectation which we entertain about him.

Mr. J. B. ROSS: On behalf of the European Party, Sir, I desire to associate myself with the congratulations which have been extended to Khan Sahib Abdul Hamid Chowdhury. As you have said, Sir, the post of the Deputy President is no sinecure, and I am sure the confidence that this House has shown in our friend will be amply fulfilled during his term of office.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I associate myself with the congratulations that have been showered upon my friend Khan Sahib Abdul Hamid Chowdhury on his unanimous election as Deputy President of this House. It is true that his duties will not be so

onerous; but at the same time the few occasions on which he may be called upon to discharge his duties as Deputy President will be nonetheless responsible. With the full confidence which the House has placed in him, I hope he will be able to carry on his duties to our fullest satisfaction.

Khan Sahib ABDUL HAMID CHOWDHURY: Mr. President, Sir, when the heart is full of gratitude, words are but few. In fact, I do not find language in which I can adequately give expression to my feelings of thankfulness and gratitude to you, Sir, as well as to my honourable colleagues who have conferred on me the high honour which lies in their gift by choosing me unanimously for the office of the Deputy President of this Council. I am extremely grateful to you, Sir, as well as to the Leader of the House, Leader of the Opposition, Professor Kabir, Raja Bahadur of Nashipur, Mr. Ross, Mr. Hamidul Huq Chowdhury and Mr. Kader Bux for the very kind expression of their good wishes on this happy occasion. I wish I might deserve at least a part of their high praises.

Henceforward, it will be my sacred duty to move in such a way as to prove myself by my conduct and action worthy of the confidence reposed in me. I can assure this House that, if occasion arises to decide between conflicting opinions, I shall forget all party politics and try my level best to hold the scales of justice even.

Before I resume my seat, I again offer my grateful thanks to you, Sir, and to my honourable brethren of this House. My particular thanks are due to my esteemed friend Professor Kabir for his eleventh hour decision to allow me a free passage to the position of trust and honour to which I have just been called.

NON-OFFICIAL BILLS

The Bengal Ferries (Amendment) Bill, 1939.

Khan Bahadur ATAUR RAHMAN: Sir, I beg to move that the Bengal Ferries (Amendment) Bill, 1939, be taken into consideration.

I find that the Hon'ble Minister has already given notice of an amendment that the Bill be circulated for the purpose of eliciting opinion thereon by the 20th July, 1941. There is also another amendment by Mr. Nur Ahmed to the effect that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st of October, 1940. I shall not press my motion if the Hon'ble Minister accepts the motion of Mr. Nur Ahmed that the Bill be circulated till the 31st of October.

Mr. PRESIDENT: Motion moved: that the Bengal Ferries (Amendment) Bill, 1939, be taken into consideration.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: With your permission, Sir, I beg to move a short notice amendment that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

Khan Bahadur ATAUR RAHMAN: Sir, I have no objection to the Hon'ble Minister's motion being accepted.

Mr. PRESIDENT: Amendment moved: that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

The question before the House is: that the Bengal Ferries (Amendment) Bill, 1939, be circulated for the purpose of eliciting opinion thereon by the 31st of December, 1940.

(The motion was agreed to.)

The Bengal Water-Hyacinth (Amendment) Bill, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move for leave to introduce the Bengal Water-Hyacinth (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Khan Bahadur Saiyed Muazzamuddin Hosain to introduce the Bengal Water-Hyacinth (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Water-Hyacinth (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Mussalman Matrimonial Jurisdiction Bill, 1940.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to move for leave to introduce the Mussalman Matrimonial Jurisdiction Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Hamidul Huq Chowdhury to introduce the Mussalman Matrimonial Jurisdiction Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Mussalman Matrimonial Jurisdiction Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Moslem Marriage Extravagant and Superfluous Expenditure Regulation Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Bengal Moslem Marriage Extravagant and Superfluous Expenditure Regulation Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Moslem Marriage Extravagant and Superfluous Expenditure Regulation Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Moslem Marriage Extravagant and Superfluous Expenditure Regulation Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Estates Partition (Amendment) Bill, 1940.

Rai Bahadur BROJENDRA MOHAN MAITRA: Sir, I beg to move for leave to introduce the Bengal Estates Partition (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Rai Bahadur Brojendra Mohan Maitra to introduce the Bengal Estates Partition (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Estates Partition (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Bus Drivers and Conductors Bill, 1940.

Mr. HUMAYUN KABIR: Sir, I beg to move for leave to introduce the Bengal Bus Drivers and Conductors Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Humayun Kabir to introduce the Bengal Bus Drivers and Conductors Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Bus Drivers and Conductors Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Non-Agricultural Tenancy Bill, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move for leave to introduce the Bengal Non-Agricultural Tenancy Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Khan Bahadur Saiyed Muazzamuddin Hosain to introduce the Bengal Non-Agricultural Tenancy Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Non-Agricultural Tenancy Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Presidency Small Cause Court (Amendment) Bill, 1940.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to move for leave to introduce the Presidency Small Cause Court (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Hamidul Huq Chowdhury to introduce the Presidency Small Cause Court (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Presidency Small Cause Court (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Public Gambling (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Bengal Gambling (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Public Gambling (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Public Gambling (Amendment) Bill. 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Domestic Servants' Relief Bill, 1940.

Mr. HUMAYUN KABIR: Sir, I beg to move for leave to introduce the Bengal Domestic Servants' Relief Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Humayun Kabir to introduce the Bengal Domestic Servants' Relief Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Domestic Servants' Relief Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Land Alienation Bill, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move for leave to introduce the Bengal Land Alienation Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Khan Bahadur Saiyed Muazzamuddin Hosain to introduce the Bengal Land Alienation Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Land Alienation Bill, 940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Places of Public Amusement (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Bengal Places of Public Amusement (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Places of Public Amusement (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Places of Public Amusement (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Indian Bar Council (Amendment) Bill, 1940.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to move for leave to introduce the Indian Bar Council (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Hamidul Huq Chowdhury to introduce the Indian Bar Council (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Indian Bar Council (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Village Self-Government (Amendment) Bill, 1940.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to move for leave to introduce the Bengal Village Self-Government (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Hamidul Huq Chowdhury to introduce the Bengal Village Self-Government (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Village Self-Government (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Court of Wards (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Bengal Court of Wards (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Court of Wards (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Court of Wards (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Land-Revenue Sales (Amendment) Bill, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move for leave to introduce the Bengal Land-Revenue Sales (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Khan Bahadur Saiyed Muazzamuddin Hosain to introduce the Bengal Land-Revenue Sales (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Land-Revenue Sales (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Stock Brokers Bill, 1940.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, beg to move for leave to introduce the Bengal Stock Brokers Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Hamidul Huq Chowdhury to introduce the Bengal Stock Brokers Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Stock Brokers Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Agricultural Debtors (Amendment) Bill, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move for leave to introduce the Bengal Agricultural Debtors (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Khan Bahadur Saiyed Muazzamuddin Hosain to introduce the Bengal Agricultural Debtors (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Agricultural Debtors (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Usurious Loans (Bengal Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Usurious Loans (Bengal Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Usurious Loans (Bengal Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Usurious Loans (Bengal Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal State Aid to Industries (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, beg to move for leave to introduce the Bengal State Aid to Industries (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal State Aid to Industries (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal State Aid to Industries (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Urban Poor Relief Bill, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move for leave to introduce the Bengal Urban Poor Relief Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Khan Bahadur Saiyed Muazzamuddin Hosain to introduce the Bengal Urban Poor Relief Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Urban Poor Relief Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Good Conduct Prisoners Probational and Temporary Release Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Bengal Good Conduct Prisoners Probational and Temporary Release Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Good Conduct Prisoners Probational and Temporary Release Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Good Conduct Prisoners Probational and Temporary Release Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Wakf (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir I beg to move for leave to introduce the Bengal Wakf (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Wakf (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Wakf (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Agriculturists' Loans (Bengal Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Agriculturists' Loans (Bengal Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Agriculturists' Loans (Bengal Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Agriculturists' Loans (Bengal Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Land-Revenue Sales (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Bengal Land-Revenue Sales (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Land-Revenue Sales (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Land-Revenue Sales (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Juvenile Smoking (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Bengal Juvenile Smoking (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Juvenile Smoking (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Juvenile Smoking (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Food Adulteration (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Bengal Food Adulteration (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Food Adulteration (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Food Adulteration (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Municipal (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Bengal Municipal (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Municipal (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Municipal (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Public Demands Recovery (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Bengal Public Demands Recovery (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Public Demands Recovery (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Public Demands Recovery (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Primary Education (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Bengal Primary Education (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Primary Education (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Primary Education (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Money-lenders (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Bengal Money-lenders (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Money-lenders (Amendment) Bill, 1940.

(The motion was agreed to.)

SECRETARY to the COUNCIL: The Bengal Money-lenders (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced.

Order, order. The House stands adjourned till 2-15 p.m. on Monday next.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 5th August, 1940.

Members absent.

The following members were absent from the meeting held on the 2nd August, 1940:—

(1) Rai Bahadur Keshab Chandra Banerji.

(2) Mr. D. J. Cohen.

(3) Khan Bahadur Syed Muhammad Ghaziul Huq.

(4) Maulana Muhammad Akram Khan.

B. G. Press—1940-41—7103A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Monday, the 5th August, 1940, at 2-15 p.m., being the sixth day of the Second Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Removal of Holwell Monument.

35. Mr. SHRISH CHANDRA CHAKRAVARTI: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(a) why the Government is hesitating to remove the Holwell Monument;

(b) whether it is a fact that the removal of the said Monument will facilitate the movement of traffic; and

(c) what are the definite intentions of the Government regarding the demand for the removal of the said Monument?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (a) There is no hesitation.

(b) Yes.

(c) The honourable member is referred to the statement of Government's policy which appeared in the *Star of India*, dated the 24th July, 1940, a copy of which is laid on the table.

Statement referred to in the reply to question No. 35.

Star of India (Calcutta) of 24th July, 1940, published the following:—

PREMIER'S STATEMENT.

The following is the full text of the Premier's statement:—

"The question of removal of the Holwell Monument was discussed in the Coalition Party in May last and at that time we gave an assurance to the Party that the decision of the Government regarding the question

of its removal would be announced within six months at the least. The question was again considered in a meeting of the Coalition Party this afternoon.

"In pursuance of the assurance given to the Coalition Party in May last and as a result of the discussion in the Party this afternoon, Government have decided to take immediate steps for the removal of the Holwell Monument.

"As regards the regrettable incident on Monday afternoon, I am authorised by my colleagues to convey to the Principal and the staff and the students of the Islamia College their deep and sincere regret if any innocent person was injured. I do not wish to enter into details but I hope that this expression of our regret will be accepted in the spirit in which it is tendered.

"Lastly, I have been authorised to state that Government propose to constitute a Committee of Inquiry to inquire into the incident of Monday afternoon. By taking this step we do not wish in the least to prejudge issues and we believe that these inquiries will be helpful in bringing out the actual facts and serve to put a stop to dissemination of false and mischievous rumours.

"I wish to take this opportunity of acknowledging the unfailing sympathy which the European community have shown towards the question of the removal of the Holwell Monument. Their representatives in both the Houses have ever shown the utmost readiness to respond to Indian opinion and to help us in coming to a satisfactory solution of the question. But for their co-operation and help it would have been difficult to arrive at the decision which I have been privileged to announce to-day."

Mr. HUMAYUN KABIR: Can the Hon'ble Minister give us some idea about the time which might elapse before the steps promised there are carried out?

The Hon'ble Khwaja Sir NAZIMUDDIN: Steps have already been taken. There is no question of waiting for the steps.

Mr. HUMAYUN KABIR: Can we then have some idea when the monument can be removed?

The Hon'ble Khwaja Sir NAZIMUDDIN: We are waiting for information from the Government of India. To give effect to our suggestion it is necessary that the Government of India should withdraw the notification by which it was placed under the Ancient Monuments Act.

Cess Revaluation in Bankura.

36. Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) the units into which the district of Bankura was divided for general Cess Revaluation under section 12 of the Cess Act in 1892-94, 1904-07 and 1922-26;

(*b*) the total estimated gross values of paddy straw of all cess-paying lands of each unit in the above periods;

(*c*) the respective areas of all cess-paying lands of each unit in the above periods;

(*d*) the estimated maximum values of produce on an average per acre of land in the above periods;

(*e*) the average rate per acre in each unit;

(*f*) the highest and the lowest acreage rates in each unit;

(*g*) the classes of land treated as cess-free; and

(*h*) whether he will be pleased to lay on the table statements specifying the average rates and classes of cess-free lands prepared under section 107 of the Cess Act during the last three Cess Revaluations?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) The district of Bankura was not divided into units in any of these revaluation operations, as provisions for the division of a district into units were introduced only in 1934 by the amending Act IX of that year.

(*b*) to (*f*) and (*h*) Do not arise.

(*g*) No such classification was made nor was it necessary to do so as the cess was assessed on the annual value of lands as defined in section 4 of the Cess Act.

Yield of crop in the bhati areas of Mymensingh.

37. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Agriculture and Industries Department kindly state—

(*a*) if he is aware that the Bengal Land Revenue Commission in the course of its enquiry had got certain figures and statistics from the Director of Land Records regarding yield of crop in *bhati* areas of Mymensingh (i.e.. Ashtogram and other thanas) and it showed that more than half the areas had gone out of cultivation owing to ravages of early flood and water-hyacinth;

(*b*) if he is aware that a large proportion of this area which has gone out of cultivation may be made culturable, if minor projects of irrigational bunds and low embankments for resisting first inroads of early flood are constructed in this area;

(*c*) if he is aware that some 300 square miles of fertile land have gone out of cultivation in the *bhati* area of Mymensingh, in Itna, Nikhli, Ashtogram, Bajitpore and Tarail thanas; and

(*d*) whether the Government contemplate to have investigations made as to how the area can be reclaimed?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) The Bengal Land Revenue Commission obtained a report from the Director of Land Records in regard to the yield of crop in the *bhati* areas of Mymensingh which indicated that early flood and water-hyacinth had greatly reduced the area under cultivation but did not precisely indicate that more than half the entire area had gone out of cultivation.

(*b*) and (*d*) I have already ordered an inquiry to be made into the matter by suitable experts of the Agriculture and Irrigation Departments.

(*c*) I am aware that a large area in the locality has gone out of cultivation but cannot precisely say whether the area that has thus gone out of cultivation measures 300 square miles.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister kindly state when the enquiry is likely to be commenced?

The Hon'ble Mr. TAMIZUDDIN KHAN: I cannot say that. I think as soon as possible.

Mr. PRESIDENT: Questions numbering 38, 39 and 40 are to be replied by the Hon'ble the Chief Minister. As he is not present, I hold them over.

Allegations against the authorities of the Bengal Government Press.

41. Mr. HUMAYUN KABIR (on behalf of Mr. K. C. Roy Chowdhury): (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to state whether it is a fact that the President, Press Employees' Association, Calcutta, wrote a letter on the 11th April, 1940, to him making serious allegations against the authorities

of the Bengal Government Press regarding the subject referred to in question No. 78, dated the 1st April, 1940, of the Bengal Legislative Council? If so, will the Hon'ble Minister please enlighten the House as to the contents of the said letter?

(*b*) If the reply to clause (*a*) be in the affirmative, what steps have been taken by the Government or are intended to be taken in the matter? If not, why not?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) A copy of a letter dated the 12th April, 1940, from the President, Press Employees' Association, is placed in the Library.

(*b*) The only point brought to light by that letter which called for any steps by Government was a small error on the part of the Superintendent, Government Press, about application of the leave rules in the case of those whose conditions of service are governed by Fundamental Rules. This error has been brought to the notice of the Superintendent and in future the rules will be applied correctly.

Cut in the pay of the Lino Operators.

42. Mr. HUMAYUN KABIR (on behalf of Mr. K. C. Roy Chowdhury): (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to state if it is a fact that ever since the declaration of the war prices of all articles, especially those of everyday necessaries, have gone up and that the Government have not made any cut in the earnings of the workers?

(*b*) Is it not a fact that in the Bengal Government Press authorities decided to cut 40 per cent. pay (earning) of Lino Operators working in vernacular composing section?

(*c*) Is it a fact that the Deputy Superintendents, clerks, readers, supervisors and those working in the Confidential Section in the Bengal Government Press have not suffered the least cut in their pay?

(*d*) If the replies to clauses (*a*) to (*c*) be in the affirmative, will the Hon'ble Minister be pleased to state what is the reason?

The Hon'ble Mr. H. S. SUHRAWARDY: (*a*) The general trend of prices since the outbreak of hostilities in Europe has been upwards.

Government have not made any general reduction in the pays of their employees.

(*b*) and (*d*) No.

What presumably the honourable member has in mind is the order of the 24th May, 1940, fixing the piece rates for Linotype composition in Bengali at 40 per cent. for solid matter and at 25 per cent. for electoral rolls and work of a similar nature above the rates for Linotype composition in English.

Linotype composition in Bengali was first introduced into the Bengal Government Press in December, 1935. As the work was new and there was an obvious likelihood of considerable hardship if the same rates were fixed for Bengali composition as obtained for English composition, the former rates were fixed in the first instance at 50 per cent. above the rates for English composition. The position is reviewed annually and the orders are designed to ensure to Bengali Linotype Operators earnings of the same order as those earned by their colleagues on English composition. A comparison of the earnings of those engaged on Bengali composition with those engaged on English composition for the year ending on the 10th March, 1940, indicated that there was no longer any justification for retaining the rates for Bengali composition at the flat rate of 50 per cent. above the rate for English composition and the rates were accordingly fixed at 40 per cent. above for solid matter and 25 per cent. above for Bengali electoral rolls and similar work.

(*c*) Yes, with the exception of the Bengali Linotype Operator of the Confidential Section who is also subject to the order, dated the 24th May, 1940, fixing the piece rates for Linotype composition in Bengali at 40 per cent. for solid matter and at 25 per cent. for electoral rolls and work of a similar nature above the rates for Linotype composition in English.

Mr. HUMAYUN KABIR: Can the Hon'ble Minister give this House some idea of what in actual amount is the difference between the 50 per cent. and 40 per cent. as mentioned in answer to (*c*)?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, that I am unable to say. The new rates only bring the earnings into line with the earnings of the English Linotype operators.

Mr. HUMAYUN KABIR: My question is slightly different. The question I asked is what difference has it made to the salary of these operators in terms of actual amount.

The Hon'ble Mr. H. S. SUHRAWARDY: My reply was that I do not know.

Prosecution of the Editor and Printer of the "Ananda Bazar Patrika".

43. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that for publishing an article entitled "Odds and Ends" on the 7th April last, Sreejut Satyendra Nath Mazumdar, Editor of the *Ananda Bazar Patrika*, and Sreejut Suresh Chandra Bhattacharjee, printer and publisher of the said newspaper, were prosecuted in the Court of the Chief Presidency Magistrate at Calcutta?

(*b*) If so, what was the result of that prosecution? Have they been convicted? If so, what was the form of the sentence?

(*c*) What was the cost of the Government for that prosecution?

(*d*) Did the *Ananda Bazar Patrika* publish any speech delivered by Mr. Subhas Chandra Bose or by Swami Sahajananda during the National Week in contravention of the prohibitory order issued by the Government under the Defence of India Rules which was published in the *Calcutta Gazette* on the 5th April last?

(*e*) Since the inauguration of Provincial Autonomy, how many times was the *Ananda Bazar Patrika* prosecuted and on what charges and with what results?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) The editor, printer and publisher of the paper were convicted under rule 41 (*3*) of the Defence of India Rules and released with an admonition by the Chief Presidency Magistrate, Calcutta.

(*c*) The information is not readily available.

(*d*) No.

(*e*) Once.

Collection of agricultural loans in the district of Bankura.

44. Rai Bahadur MANMATHA NATH BOSE: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state how many Presidents and Secretaries of Union Boards in the Sadar Circle of the district of Bankura were empowered to collect agricultural loans and by whom were they authorised?

(*b*) Was any receipt given by them?

(*c*) Were the amounts collected by them remitted to the Treasury or the Circle Officer concerned in due time?

(*d*) Is it a fact that the actual sum collected by them were not paid to the authorities?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) No President or Secretary of a Union Board in the Sadar Circle was empowered to collect agricultural loans.

(*b*) to (*d*) Do not arise.

Election of Presidents of the Union Boards of the Sadar Circle of Bankura.

45. Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) the dates, times and places of elections of Presidents of Union Boards in the Sadar Circle in the district of Bankura;

(*b*) whether the Presiding Officers were empowered under rule 29 of the Election Rules under the Village Self-Government Act by the District Magistrate, and the special meetings were convened under rule 31 of the said Rules;

(*c*) whether rule 1 of the Rules regulating the conduct of meetings of Union Boards was complied with;

(*d*) whether the minutes of proceedings were entered in the books of the respective Union Boards;

(*e*) if it is a fact that the Circle Officer, Sadar, has compiled Union Board Manual in Bengali and that the said officer violated rules at the time of the elections of the Presidents;

(*f*) whether it is a fact that Babu Baneswar Das died before election and that his name was published in the *Calcutta Gazette* as an elected member of the Jamtara Union Board within police-station Chhatna, and that a notice was also sent to his address to attend the special meeting convened for electing a President; whether any one has been elected in his place; if so, when the bye-election was held; and

(*g*) how many times the Circle Officer visited the Jamtara Union Board between October, 1938, and June, 1939?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Public Health and Local Self-Government Department, the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): Steps have been taken for the collection of the information which is not yet available.

Rai Bahadur MANMATHA NATH BOSE: May I enquire, Sir, when it will be available?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it is very difficult to give any particular date by which it will be available, but Government are trying to collect the information as early as possible.

Adjournment Motion.

Mr. PRESIDENT: The Chair has received the following notice for adjournment of the business of the House from Mr. Lalit Chandra Das:—

"That this Council do adjourn its business to discuss a definite matter of urgent public importance, viz., the situation which has arisen out of a serious railway disaster to Dacca Mail involving several deaths and many injured which occurred last night between stations Darsana and Jairampur near Chuadanga. The disaster could and should have been prevented if proper steps and precautions were taken by the railway officials concerned."

As the motion relates to a matter which is not primarily the concern of the Local Government, I hold that it is clearly out of order. If, however, Government desire to give any information to the House on this very important matter, they may do so; but it will not be in connection with this motion.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, the information which we have received from the Railways so far is very meagre. But as I find—and it is only natural—that hon'ble members of the House are very anxious to get some information about this tragic incident, I give the following facts relating to the occurrence which I have gathered from the General Manager of the Railways over the 'phone and also after having a personal talk with him at the Sealdah Railway Station.

The unfortunate accident occurred to the "8 Down" Dacca Mail near Jairampur about 80 miles from Sealdah Station at about 2-55 a.m. this morning. It is alleged by the Railways that one of the rails was removed from the track and as a result the engine and three bogies fell down the embankment and crashed. The number of dead, from information so far received is 20, and the number of injured is about 40. I may further inform the House that the Chief Medical Officer, who happened to be near the place of occurrence, went to the spot by 4-40 a.m. The first relief train reached there by 5 a.m. and the second

relief train was there by 8 a.m. The District Magistrate, the Superintendent of Police, and the Senior Government Inspector have left for the place of occurrence for local enquiry. The injured are being brought to Calcutta by the "2 Down" train which, I hope, has arrived Sealdah by now. Sir, I may also state that I had been to the railway station to look to the arrangements which have been made by the railway authorities for giving first-aid to the injured and also food and drink. I am glad to inform the House that the arrangement made by the new General Manager is excellent. A black-board has been hung up at a prominent place which is being utilised to give the names which they are receiving by telegram about the dead and the injured. They are also using a megaphone for the purpose of announcing the names to those who are not near the board. Secondly, they have made arrangements almost at every station where the train stopped to supply food and drink not only to the injured but also the other passengers who are coming in that train or by subsequent trains which have been delayed. Special arrangements have also been made in the Kanchrapara railway station where a medical officer has been posted to take out from the railway train any serious case which might be in need of immediate removal to the hospital.

Sir, that is all the information we have received so far. I was anxious to see for myself the injured persons when they arrived, but I had to come away for this adjournment motion which you have, Sir, disallowed.

Mr. NARESH NATH MOOKERJI: Has the Hon'ble Minister any information whether this train was carrying any members of the Legislature to Calcutta?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I have no information so far about that.

Mr. LALIT CHANDRA DAS: Has the Hon'ble Minister any information as to the cause of the disaster?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: As I have said just now, it is impossible to say anything definitely about the cause of the accident at this stage, because the whole place must now be full of *débris*. But the information which the Railway authorities have got and what they allege is that one of the rails was removed from the track and that was responsible for the accident. We must, however, wait for the magisterial enquiry to get at the real facts of the case.

Panel of Chairmen.

Mr. PRESIDENT: Order, order. Under Rule 6 of the Bengal Legislative Council Procedure Rules, I nominate—

(1) Mr. Kamini Kumar Dutta,
(2) Begum Hamida Momin,
(3) Raja Bhupendra Narayan Sinha Bahadur, and
(4) Mr. J. B. Ross,

on the panel of Chairmen for the current session.

Committee of Privileges.

Under Rule 120 of the Bengal Legislative Council Procedure Rules, a Committee of Privileges is to be constituted by election. I fix 2 p.m. on Friday, the 9th August, 1940, as the last date for receiving nominations for the said Committee. I also fix Monday, the 12th August, 1940, as the date for the election, if necessary, to be held after the questions.

Committee of Petitions.

Under Rule 84 of the Bengal Legislative Council Procedure Rules, I nominate—

The Deputy President (as *ex-officio* Chairman),
Khan Bahadur Ataur Rahman,
Rai Keshab Chandra Banerjee Bahadur,
Mr. W. B. G. Laidlaw, and
Mr. Sachindra Narayan Sanyal,

on the Committee of Petitions.

House Committee.

Under Rule 122 of the Bengal Legislative Council Procedure Rules, I nominate—

The Deputy President (as *ex-officio* Chairman),
Khan Bahadur Rezzaqul Haider Chowdhury,
Mrs. K. D'Rozario,
Mr. W. F. Scott-Kerr,
Mr. Ranajit Pal Chowdhury,
Mr. Mesbahuddin Ahmed, and
Mr. Hamidul Huq Chowdhury,

on the House Committee for the current session.

Library Committee.

Under Rule 121 of the Bengal Legislative Council Procedure Rules, I nominate—

Mr. Humayun Kabir,
Khan Bahadur Naziruddin Ahmed,
Rai Manmatha Nath Bose Bahadur,
Mr. Lalit Chandra Das,
Mr. Srish Chandra Chakraverti,
Mr. D. J. Cohen, and
Mr. Humayun Reza Chowdhury,

on the Library Committee for the current financial year.

Governor's assent to Bills.

I have now to announce to the House the names of the Bills which having been passed by both the Houses of the Bengal Legislature have received the assent of His Excellency the Governor-General in the name of His Majesty, under the provisions of section 76 (*1*) of the Government of India Act, 1935, viz.,—

(1) The Official Trustees (Bengal Amendment) Bill, 1940,
(2) The Administrator-General (Bengal Amendment) Bill, 1940.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I have the honour to give notice that at the present session of the Bengal Legislative Council I shall introduce the Bengal Water-Hyacinth (Amendment) Bill, 1940, and shall move that the Bill be taken into consideration and passed, as settled in the Council.

The Bengal Shops and Establishments Bill, 1940.

Mr. PRESIDENT: The House will now resume discussion on the Bengal Shops and Establishments Bill, 1940.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, in view of the fact that a large number of amendments have been tabled, Government are not in a position to proceed with the consideration of the Bill to-day but desire to discuss the various amendments with some members representing certain groups of this House. I would, therefore, suggest that the consideration of this Bill be postponed till Thursday next.

Mr. NARESH NATH MOOKERJEE: On a point of information, Sir. May we know whether it will be open to us to suggest further amendments in that case?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, after the consideration of the various amendments some of which Government will be inclined to accept, and also in order to conform to the views expressed by the honourable members of this House, it may be necessary to put in certain amendments to those already tabled. I do not wish to take the honourable members by surprise and it would be much better if we could put in new amendments by Thursday next and also circulate them to the honourable members so that they will know what amendments we are going to press.

Mr. PRESIDENT: I would like to know by what date the amendments will be sent to the Council office.

The Hon'ble Mr. H. S. SUHRAWARDY: By Wednesday, Sir.

Mr. PRESIDENT: The difficulty will be that there will be hardly any time for the honourable members to scrutinise the amendments before they are taken up on the next day.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, the new amendments which we are proposing to put in only arise out of the amendments that have been already tabled. There are no fresh amendments that we propose to put in.

Some of the amendments do not exactly express the views of the honourable members who have given notice of them and also some of the amendments will have repercussions on the other clauses of the Bill. It is in order to examine them and to find out which of the clauses will have to be modified and which of the amendments we can accept that we want to postpone discussion on the Bill to-day. For these reasons, some further consideration is necessary and we therefore propose that the discussion may be postponed till Thursday next. As there will be no fresh amendments, I think there will be no difficulty in proceeding with the Bill on Thursday.

Mr. KAMINI KUMAR DATTA: In view of what has been said by the honourable member in charge of the Bill, since Government contemplate some alterations in the text of the Bill, I think other members ought to be given an opportunity after the Government amendments are placed on the table, to put further amendments.

Mr. PRESIDENT: So far as I have understood the Government position, they have received notices of some amendments from non-official members. Government will consider those amendments with a view to accept as many of them as are approved and will incorporate those in their own amendments. Further, the acceptance of some of the amendments may involve alterations of a consequential nature which will have to be made in some of the other clauses.

Mr. NARESH NATH MOOKERJEE: What I really meant was whether amendments that may be put in by private members by Wednesday next will be included.

Mr. PRESIDENT: The last date for submitting amendments has already been passed and those amendments of which notices have been received are now included in the consolidated list of amendments. Of course, if there be any further amendments, acceptable to the House unanimously, they might be accepted, as it is always done, at short notice.

Mr. HUMAYUN KABIR: Sir, there is one other point on which we would like to have a little clarification. Government proposes to accept some of the amendments and we want to know beforehand what amendments Government proposes to move in the House. Government may bring them forward as short notice amendments but what we are concerned with is that short notice amendments should not come before us on the floor of the House all at once but at least 24 hours earlier.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, a large number of amendments have been tabled and some of them or the principles involved in them are going to be accepted by Government. On those amendments Government would propose their own drafts. In that case it would be necessary for the honourable members to see whether the amendments of the Government really fit in with the text of the Bill. We cannot be too careful in this respect. In these circumstances, I think Thursday would be rather too short an interval for the House and I am inclined to agree with the suggestion put forward by the Leader of the Congress party. In fact, the House may reasonably like to consider the entire situation. This is a non-contentious Bill but the House will certainly like to carefully consider the amendments that may be proposed by the Government to enable them to make up their mind. Therefore, I fear, so far as we are concerned, we being a bit slower to follow quick changes of drafts, we should take a little more time and I suggest that Monday would be more suitable. I believe a little extra time will make the Bill more perfect. Although the spirit of the amendments may be accepted, still a technical

consideration of the wording would, I submit, be a useful investment. Last minutes changes have their pitfalls and unforeseen difficulties. I would, therefore, suggest that Monday would be very suitable from the point of view of the honourable members.

Th Hon'ble Mr. H. S. SUHRAWARDY: Sir, I fail to understand why Khan Bahadur Naziruddin Ahmad is so apprehensive about this matter and wants further time. After all, we could go on considering this Bill item as it now stands. But it means this—that we shall be wasting a lot of time in discussing the amendments having not made up our minds whether to accept or reject them. I wanted to avoid the necessity of dragging on this Bill, and I would like to indicate the amendments which the Government propose to make, so that the honourable members will know what Government propose to do. Under these circumstances, I do not think it will be necessary to take as long a time as Monday. But if honourable members desire it, I am in their hands.

Mr. PRESIDENT: Should we adjourn till Monday?

Mr. RANAJIT PAL CHAUDHURI: Sir, Friday is a non-official day and we do not want to give up that day.

Mr. NARESH NATH MOOKERJEE: Before you arrive at a decision, may I make a submission? Private members should be given an opportunity to put in some new amendments. I feel sure that this will serve the interest of the Bill itself and it would be improving certain clauses which the Government at that time may accept or refuse to accept. I feel, Sir, as the Government are getting time, we may also get some time to put in some other amendments to the Bill. I pray that you will take this matter into consideration before you arrive at a decision.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am sorry, I cannot see eye to eye with the honourable member. There will be ample time.

Mr. PRESIDENT: The difficulty is that a consolidated list of amendments has already been made and that arrangement will have to be changed if new amendments are accepted. So, the Chair will not accept new amendments, except when they are very few in number and very important.

Mr. HUMAYUN KABIR: Sir, I am not at all interested in the matter of postponing the Bill till Friday. I do not mind if it is taken up to-day. We want 24 hours' time before the Government amendments are placed before us. Otherwise, it will be very inconvenient if they are given to us suddenly on the floor of the House; we may not be able to give time to consider them.

Mr. PRESIDENT: Mr. Dutta, do you want the House to sit on Friday.

Mr. KAMINI KUMAR DATTA: Yes Sir, we want to sit on Friday.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, in that case, let us adjourn till Thursday. They cannot have both ways.

Khan Bahadur ABDUL KARIM: Sir, my party's opinion is divided but I think the majority of them are inclined to the opinion that the matter might well be taken up on Monday instead of on Thursday. They are not going to lose the non-official day on Friday. Either this Bill might be taken up on Thursday or on Monday next.

The Hon'ble Mr. H. S. SUHRAWARDY: May I point out in view of the notice given by my honourable colleague in charge of the Agricultural and Industries Department that the honourable member will get another Friday, which otherwise he would not have got. Two Fridays are already exhausted.

Mr. PRESIDENT: Order, order. The notices of amendments from Government will be received by Wednesday. The Council stands adjourned till 2-15 p.m. on Thursday, the 8th of August.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 8th August, 1940.

Members Absent:

The following members were absent from the meeting held on the 5th August, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.

(2) Mr. D. J. Cohen.

(3) Mr. Bankim Chandra Datta.

(4) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(5) Khan Bahadur Syed Muhammad Ghaziul Huq.

(6) Maulana Muhammad Akram Khan.

(7) Dr. Radha Kumud Mookerji.

(8) Mr. W. F. Scott-Kerr.

(9) Mr. R. W. N. Ferguson.

B. G. Press—1940-41—7104A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Thursday, the 8th August, 1940, at 2-15 p.m. being the seventh day of the Second Session, pursuant to section 62(2)(*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

Resolution Condoling the Death of Rai Sahib Indu Bhusan Sarker, M.L.C.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, with your permission, I would like to move the following resolution, viz.—

That this House places on record its deep sense of sorrow at the untimely death of Rai Sahib Indu Bhusan Sarker in very tragic circumstances in the recent Dacca Mail disaster and desire to convey its heartfelt condolences to the members of his bereaved family.

Sir, it is my melancholy duty to bring to the notice of the House the fact that Rai Sahib Indu Bhusan Sarker lost his life in the Dacca Mail disaster which happened in the early hours of Monday, the 5th of August. The Rai Sahib represented the general constituency of the districts of Bakarganj and Faridpur in this House from the beginning of 1937. By his amiable disposition, unassuming manners and abilities he earned the respect and affection of members belonging to all sections of this House.

Coming from a very wealthy family of bankers and zemindars in the district of Faridpur, the Rai Sahib maintained the traditions of public spirit and generosity of his family. In his death the House has lost an active member, his constituency an able representative and the district of Faridpur a prominent and promising public man. I am sure it is the desire of the members of this House to convey their heartfelt condolences to the members of the bereaved family.

With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Resolution moved: that this House places on record its deep sense of sorrow at the untimely death of Rai Sahib Indu Bhusan Sarker in very tragic circumstances in the recent Dacca Mail disaster and desire to convey its heartfelt condolences to the members of his bereaved family.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, it is my melancholy duty to second the resolution which has been moved by my friend, the Leader of the House, and to offer our deepest sympathy and condolences to the members of the bereaved family. Rai Sahib Indu Bhusan Sarker was the Secretary to our party. The Leader of the House has already said that the sad accident took place on Monday last and he was one of the victims of the Dacca Mail disaster. With regard to the Rai Sahib, it is no exaggeration to say that he was one of the most active members of this House. For the last three and a half years, we worked together and we always found him taking a keen interest in the business of this House. Only on Friday last we went together from this House and had a long discussion regarding our future programme of work. I did not know then, and no one could have dreamt then, that he would leave us so soon. It was really a cruel shock to us when we heard that he had lost his life in the accident. He was in the prime of life; he was active and full of vigour; and the shock has been most cruel to us because it was so sudden and unexpected. I may be permitted to quote in this connection, the words of our late leader, the Maharaja Bahadur of Santosh, "What shadows we are, what shadows we pursue"! You have yourself noticed how much interest the late Rai Sahib took in the business of this House. During the discussion on the Bengal Money-lenders Bill, he suggested several amendments because it was his conviction that those amendments were very useful; and although he could not carry out the amendments he was not disheartened but pressed them with vigour and sincerity of purpose. As the Leader of the House has already observed, we have lost a great friend and an active and sincere member of this House. It is a cruel shock to my party that we have lost the able Secretary to our party. Our party has been benefited by his sound advice and wise counsel. His loss to us therefore is irreparable and irrecoverable.

In conclusion, Sir, I offer my sincerest and deepest condolences to his sons and other members of the bereaved family and I think it would not be improper on my part to offer our sympathy and condolences to the bereaved families of those unfortunate persons who have lost their lives in this accident and also our sympathy to the injured persons.

Sir, the Rai Sahib rose to prominence not only as a member of this House but also for having taken a prominent part in the welfare of his own district. He was the Vice-Chairman of the District Board of Faridpur, a Commissioner of the Faridpur Municipality, an Honorary Magistrate with first class powers; he was also the Secretary to the Central Co-operative Bank and also was connected with many other institutions. Lately, he was the Secretary to the War Fund and has himself contributed about Rs. 2,000 from his own purse. He had also

established a school and a dispensary in the name of his late revered father. Sir, these philanthropic acts shows how noble and charitably disposed he was and also how much interest he used to take in the welfare of his own district. His sweet temperament, loving manners and his unexceptionable courtesy had made him so popular and beloved a figure in the public life of Faridpur.

Khan Bahadur M. ABDUL KARIM: Sir, it is really with melancholy hearts that we have assembled to-day. The Dacca Mail disaster, involving the loss of 40 lives known so far and numerous wounded persons, has come as a great shock to us and we on this side of the House have felt sorely grieved by the tragic and pathetic death of our friend and colleague Rai Sahib Indu Bhusan Sarker. Born with a silver spoon in his mouth, he was able to devote his whole time and energy to the study of politics, and his achievements in his own district of Faridpur during the last 12 or 13 years bear eloquent testimony to his genuine public spirit and generosity. Here in this Council too, he gave very early promise of an earnest worker and although he used to cling tenaciously to his own opinion, he had that cardinal human virtue, namely, tolerance for the opinions of others, and a sincerity of purpose. As a man, his was a charming personality. I found that he had a deep-rooted respect, which is very rare now-a-days, for his seniors: he was courteous to all. As a matter of fact, he was a true gentleman every inch of him. We all deplore his loss and that his useful public career should have been cut off in the prime of life. We can only exclaim in the words of the Persian Poet—"Oh! we were looking joyously at the blossoming of the rose when lo! the spring tide abruptly came to end and blasted that rose for ever".

We think it our duty to offer our sincere and genuine condolences to the members of the bereaved family and we pray to God for the welfare of his soul and also that He may grant to the members of his bereaved family the strength of mind to bear up the terrible loss. With these words, I support the resolution moved by the honourable Leader of the House.

Mr. NARESH NATH MOOKERJEE: Mr. President, Sir, on behalf of the Congress Group in this House, I wish to record our deepest sense of sorrow and sympathy at the untimely death of Rai Sahib Indu Bhusan Sarker. Sir, the Rai Sahib, though he was very young in years, had already created a great impression on this House by the good work that he had done in connection with some important legislations that were passed. Sir, his untimely death and the circumstances which led up to it have cast a mournful shadow over the loss. We not only

mourn his loss but we wish to tender to his family and to his son particularly our sincerest sympathy in the irreparable loss they have sustained. I desire also to move that as a mark of respect to the memory of the late Rai Sahib the business of the House do stand adjourned for the day.

Mr. J. B. ROSS: Mr. President, Sir, the members of the European party in this House desire me most earnestly to associate them with the sentiments which have been expressed by the Leader of the House and by other members who have just spoken in reference to the most unfortunate and untimely death of our late colleague, Rai Sahib Indu Bhusan Sarker. We have had ample opportunity in this House to listen to the views which he had expressed from time to time and we are in no doubt as to his honesty of purpose and his transparent sincerity. It is, therefore, a most tragic event which has cut off in the prime of life a man of those attributes. This House has lost by his death a keen debator, a man of unblemished character and a cultured gentleman. The European Party in this House deeply regret the loss of a friend and colleague, and they desire me to extend to the members of his family their sincerest sympathy in their very sudden and very great bereavement.

With these words, I desire to associate the European Party with the motion moved by the Leader of the House.

Mr. HUMAYUN KABIR: Mr. President, Sir, the news of the death of Rai Sahib Indu Bhusan Sarker came as a great shock to every member of this House, and the shock was the greater because it was so unexpected. Only a few days ago he had been in this House with us and had taken part in the activities of this House, and even after the accident had happened, many of us were under the impression that his business had called him away from Rajbari to Goalundo in which case he would have been on the river and many of us were under the impression that he had escaped the disaster. But it came as a greater shock when we suddenly learnt that death had called him away from us. Death is inevitable no doubt, but when it comes suddenly and particularly to persons in the prime of their youth to men who have their all to give to their community, to their country, it comes with a greater shock, and we on this side of the House—and I am sure all members of this House—are at one in expressing our very great sorrow at the loss which the House has suffered on account of his death and also in expressing our deepest sympathy with the bereaved family. With these words, Sir, I also associate myself with the words of grief at his death and also with the desire expressed by my friend Mr. Mookerjee on behalf of this House that the business of the House should be adjourned as a mark of memory to the departed soul.

Mr. MOAZZEMALI CHOUDHURY : সভাপতি মহাশয়, আমার সহৃদয় বন্ধু এবং সহকর্ম্মী রায় সাহেব ইন্দুভূষণ সরকার আজ আর আমাদের ভিতর নেই। তাঁর জন্য যে অন্তরের ব্যথা ও বেদনা অনুভব কোর্‌ছি, তা ভাষায় প্রকাশ কোর্‌তে বাস্তবিক আমার পক্ষে সম্ভব হবে না।

রায় সাহেবের সঙ্গে আমার যে সম্পর্ক সে আজকের নয়, গত দু-পুরুষ আমরা পরস্পর, পরস্পরের প্রতিবেশী। মাত্র শুক্রবার দিন,—যে দিন রায় সাহেব এখান থেকে ফরিদপুর রওনা হন, সেই দিন বিশেষ কোরে আমাকে বলেছিলেন যে আমরা একত্রে গিয়ে ফরিদপুর municipal meeting এবং school committeeর meeting কোরে আবার সন্ধ্যায় সেই দিনই এক সঙ্গে কলিকাতায় ফিরবো। তাঁর কথা মত আমি ও রায় সাহেব একই trainএ Dacca Mixedএ এখান থেকে যাই, এবং একত্রে আমরা সেখানে municipal এবং school committee meetingএর কাজ শেষ করি। Municipal ও school committeeর কাজ শেষ করে, রায় সাহেব বলেছিলেন, stationএ আবার দেখা হবে, একই trainএ আবার ফিরবো। তখনও পর্য্যন্ত ধারণা করতে পারিনি যে, আমাদের ছেড়ে এই রকম করে রায় সাহেব চলে যাবেন।

প্রত্যেক কাজে, জেলার ভিতর school committee, municipal boardএ, district board, local board, charitable dispensary এবং নানাবিধ জনহিতকর কার্য্যে, রায় সাহেবের সঙ্গে আমি একত্রে কাজ করবার সুযোগ পেয়েছি; এবং তাতে দেখেছি আমার বন্ধু রায় সাহেব দেশের এবং জনসাধারণের হিতের জন্য কতখানি চেষ্টা এবং স্বার্থত্যাগ করে থাকেন, এবং শুধু Governmentএর তরফ থেকেই সমস্ত কাজ করেছেন তা নয়, তিনি নিজের থেকে, ব্যক্তিগত ভাবে অজস্র টাকা জনহিতকর কার্য্যে ব্যয় কোরেছেন।

যখন এই দুর্ঘটনার কথা আমি শুনি, তখন সেখানে উপস্থিত হ'য়ে সর্ব্বাগ্রে অন্যান্য বন্ধুদের সঙ্গে, আমি রায় সাহেবের খোঁজ করি। এবং সব চেয়ে দুঃখের বিষয়,—আমি যখন অন্যান্য হতাহতদের সংবাদ পড়ি তার ভিতরে, তখন রায় সাহেবের কোন খোঁজ পাইনি, আমি চ'লে আসবার পর রায় সাহবের মৃতদেহ বার করা হয় debrisর ভিতর থেকে। তারপর আমার শ্রদ্ধেয় বন্ধু মৌলভী তামিজ উদ্দীন সাহেবের কাছ থেকে যখন শুনলাম যে রায় সাহেব নিহত হয়েছেন, তখন প্রথমে কিছুতেই বিশ্বাস ক'রে উঠ্‌তে পারিনি; কারণ, আমি নিজ চোক্ষে যাঁকে দেখিনি, নিজে যাঁর মৃতদেহের খোঁজ পাইনি, কি ক'রে তিনি এই রকম ভাবে নিহত হ'তে পারেন?

যাক, আমি আর বেশী কিছু বলতে চাই না এবং বলবারও ভাষা পাচ্ছি না।

শ্রীযুক্ত নরেশবাবু এবং হুমায়ুন কবীর সাহেব যা বলেছেন সেটা আমি সর্ব্বান্তঃকরণে সমর্থন কোর্‌ছি। Sir Bijay যে প্রস্তাব ক'রেছেন, সেটাও আমি অন্তরের সঙ্গে সমর্থন করছি।

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to associate myself with the words that have fallen from the various members of

this House. I have been associated with Rai Sahib Indu Bhusan Sarker since the time we became members of this House, and it had always been my privilege to sit side by side with him on this bench. I now find, Sir, to my great disconsolation and to my great grief that this seat by my side is vacant. I cannot for a moment believe that he has left this world in those tragic circumstances. When we dispersed on the last occasion we could not even think for a moment that that would be his last sitting in this House, and since I have had the privilege of knowing him I have found him to be a very sincere worker for the uplift not only of his district but of this province. He had a broad and liberal mind, and he entered into every question with sincerity of purpose which I found to be always laudable. I thought that I would be failing in my duty if I did not associate myself with the feelings that have been so well put and so well advanced before the House, and I therefore also support the motion that this House should be adjourned as a token of respect to the memory of that member of this House.

Mr. PRESIDENT: Before I place this condolence resolution for the acceptance of the House, I desire to associate myself with all that has been said by the Hon'ble the Leader of the House and other honourable members of different parties in the Council.

I do not think that many words are called for to express all that one feels on such an occasion. Born in a rich zemindar family of the district of Faridpur, Rai Sahib Indu Bhusan Sarker though brought up in the tradition of old-world aristocracy, was simple in habits, modest in bearing and deeply religious in outlook. The popularity with all sections of the people of his district which he came to enjoy quite early in his public life enabled him to occupy leading positions in his district,—in the Union Board, Local Board, Municipality and the District Board. Indeed, there was no public institution in Faridpur with which the Rai Sahib was not connected and which did not benefit by his selfless services. As the founder-secretary of the Faridpur Ishan School which bears the name of his late father, Rai Sahib Ishan Chandra Sarker, and as one closely connected with the Faridpur Rajendra College he also rendered meritorious services in promoting the cause of education in his district. The question of the establishment of a Girls' High School in his district was one of the favourite subjects which he persistently raised through questions and speeches in this House.

The Governor of Bengal has very kindly requested me to convey His Excellency's sincere sympathy to the relatives of the Rai Sahib on their tragic loss.

I desire the honourable members to rise in their places in support of this motion.

(Members rose in their seats.)

It will be my duty to communicate to the members of his family the deep sympathy and sorrow of the House. As a mark of respect to the memory of the deceased, I order the Council Department to be closed for the rest of the day and I adjourn the House without transacting any business till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 9th August, 1940.

Members Absent:

The following members were absent from the meeting held on the 8th August, 1940:—

(1) Mr. Kader Baksh.

(2) Rai Bahadur Keshab Chandra Banerji.

(3) Khan Sahib Abdul Hamid Chowdhury.

(4) Mr. Kamini Kumar Dutta.

(5) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(6) Khan Bahadur Syed Muhammad Ghaziul Huq.

(7) Maulana Muhammad Akram Khan.

(8) Mr. W. B. G. Laidlaw.

(9) Dr. Radha Kumud Mookerji.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 9th August, 1940, at 2-15 p.m. being the eighth day of the Second Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Income and Expenditure of the Faridpur District Board.

46. Rai Bahadur MANMATHA NATH BOSE (on behalf of Mr. Humayun Kabir): Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) what was the total revenue collected by the Faridpur District Board in the years 1936-37, 1937-38 and 1938-39; what were the arrears of collection in these years;

(*b*) the amount of money spent on travelling and daily allowances of the Chairman, the Vice-Chairman and the members of the District Board for these years, respectively;

(*c*) whether any remuneration, in addition to travelling and daily allowance, has been paid to any member during this period; if so, the amount paid and the name of office of the member to whom it was paid;

(*d*) the amount of money spent for maintenance of roads in the different subdivisions during the years 1936-37, 1937-38 and 1938-39, whether any amount was spent in any of the subdivisions on new projects for the improvement of communications;

(*e*) the amount of money spent on medical relief in the different subdivisions during the period;

(*f*) the amount of money spent for education in the different subdivisions during the period; and

(*g*) the number of tube-wells sunk in the different subdivisions during this period?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): A statement is laid in the Library. Owing to the short time available, it has not been possible to collect the figures of expenditure on "medical relief" and "education", subdivision by subdivision. The figures of total expenditure on these objects for the district as a whole have accordingly been shown in the statement.

Cultivation of betel leaves etc., in Bankura district.

47. Rai Bahadur MANMATHA NATH BOSE: (*a*) Is the Hon'ble Minister in charge of the Agriculture and Industries Department aware that formerly betel leaves and cucurbitaceous fruits were imported into the district of Bankura and that owing to the spread of cultivation of those varieties the import has been stopped?

(*b*) In how many police-stations have betel plants been planted and have cucurbitaceous plants been transplanted?

(*c*) How and in what way has the Agricultural Department helped the growers?

(*d*) If the answer to part (*c*) be in the negative, do the Government propose to appoint an expert officer to advise and help the growers?

(*e*) Is it a fact that the poor cultivators could not transplant sugarcane last year for want of sugarcane cuttings?

(*f*) Has the Agricultural Department made any arrangement for the supply of sugarcane cuttings this year?

(*g*) Is it a fact that molasses are imported into the district of Bankura in a very large quantity from the Provinces of Bihar and Madras?

(*h*) Is it a fact that the Agricultural Department can help the growers in replacing Co. No. 213 by Co. No. 331 as the latter variety gives 50 or 60 per cent. better products and 8 per cent. more sugar and this variety is suitable for the soil of the Bankura district?

(*i*) Is it a fact that potatoes are imported in large quantities into Bankura from Bihar?

(*j*) What steps, if any, have been taken for the spread of cultivation of potatoes throughout the district of Bankura and thereby to check the import?

(*k*) Is any sum of money given annually to the District Agricultural Association? If so, how much; and how is that amount utilised?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) I have no information that betel leaves and cucurbitaceous fruits were formerly imported into the district of Bankura. All that I can say is that they are not so imported now.

(*b*) The information wanted under this clause of the question is not readily available and its collection will require a regular survey in the district in respect of the cultivation of betel plants and cucurbitaceous plants which it has not yet been possible to undertake.

(*c*) The growers are helped with advice and supervision by the departmental officers whenever asked by them.

(*d*) Does not arise.

(*e*) I am not aware of any difficulties felt by the sugarcane growers for want of cuttings. The department distributed one lakh of sugarcane cuttings in the district last year.

(*f*) 22,500 cuttings have so far been distributed in the district during the current year.

(*g*) I have no information of any import of molasses in the district of Bankura from Bihar and Madras.

(*h*) Co. 331 is a late variety of cane which cannot replace Co. 213 which is a mid-season cane. Besides the former has a hollow pith inside which detracts much from its value.

(*i*) Yes.

(*j*) All possible steps are being taken for the spread of the cultivation of potato in Bankura as well as in other districts of Bengal by demonstration in the Thana Farms and Demonstration Centres, by supply of better seed potatoes from Darjeeling Hills and by propaganda to grow more potatoes and advice as to how to do it.

(*k*) No. Grants to District Agricultural Associations generally were suspended some years ago on the ground that they were not doing much useful work.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister kindly state if there are thana farms in every thana of Bengal?

The Hon'ble Mr. TAMIZUDDIN KHAN: No, Sir.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister kindly state if there is any thana farm in the whole of Kishoreganj subdivision?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I have not collected any information about that place at all.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister kindly state if he is aware that this sugarcane Co. 213 is now affected by red rot in various parts of Bengal?

The Hon'ble Mr. TAMIZUDDIN KHAN: I cannot say off-hand. I want notice.

Poultry diseases.

48. Khan Bahadur ATAUR RAHMAN: (*a*) Is the Hon'ble Minister in charge of the Agriculture and Industries Department aware that the death rate of poultry in almost all the rural areas of Bengal is very high owing to the frequent outbreak of cattle diseases?

(*b*) Has any enquiry been made to find out the cause, and if so, has any remedy been found for the protection of the poultries from such diseases?

(*c*) If not, what steps do Government propose to take to help the cultivators who rear poultries?

The Hon'ble Mr. TAMIZUDDIN KHAN: (*a*) I am aware that numerous deaths of poultry occur throughout Bengal owing to poultry diseases, but so far as is known to Science there is no connection between cattle diseases and poultry diseases.

(*b*) The causes of some poultry diseases have been ascertained and when it has been possible to prepare appropriate vaccines and sera these are used as preventives and cures. The causes of all diseases of fowls, in particular the Ranikhet disease, are not yet fully known and no preventive measures such as vaccine and serum have yet been discovered. The Imperial Institute of Veterinary Research is working on this problem.

(*c*) Where vaccine and serum preventives have not yet been discovered steps are taken to limit outbreaks as much as possible by hygienic control. A scheme for the investigation of poultry disease in Bengal is under preparation.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister kindly say what are the duties of the live-stock officers then?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, they have various duties. They have to look after Government bulls that are distributed throughout the length and breadth of the country. They have certain other duties as well.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is there any special poultry officer?

The Hon'ble Mr. TAMIZUDDIN KHAN: I do not think so, Sir.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that owing to these epidemic diseases poultry farming is not becoming popular in Bengal?

The Hon'ble Mr. TAMIZUDDIN KHAN: I do not think so. There are poultry diseases prevalent in Bengal, but I do not think that the diseases are prevalent to such a degree as to make the whole thing unpopular in Bengal.

Messages from the Assembly.

The SECRETARY to the COUNCIL (Dr. S. K. D. Gupta): Sir, the following message signed by the Hon'ble Speaker has been received from the Bengal Legislative Assembly:—

"The following amendments have been made in the Bengal Patni Taluks Regulation (Amendment) Bill, 1939, by the Bengal Legislative Assembly at its meeting held on the 26th July, 1940. The concurrence of the Bengal Legislative Council to the amendments made by the Assembly is requested:—

Amendments.

1. That in clause 1. line 2, for the figures '1939' the figures '1940' has been substituted.

2. That in clause 2, in the proposed proviso to section 5, line 4, for the figures '1939' the figures '1940' has been substituted.

3. That in clause 4, for sub-section (*6*) of the proposed section 6A the following has been substituted, namely:—

'(*6*) If in the case of a sale according to sub-section (*5*) the highest offer for the share or portion offered for sale is not equal to the amount of arrears of rent for which it was advertised for sale and the subsequent arrears of rent due thereon up to the date of sale, the sale shall be stopped and a notice that

the entire *patni taluk* shall be put up for sale for such arrears shall be sent to all co-sharers of the tenant in such manner as may be prescribed by rules to be made by the Provincial Government.

On the twenty-first day from the service of notice on the co-sharers of the tenant, the entire *patni taluk* shall be put up for sale for the arrears, unless any other co-sharer of the tenant shall, within fifteen days, have purchased the share or portion in arrear by paying the whole of the arrears of rent for which it was advertised for sale and the subsequent arrears of rent due thereon or the tenant pays up the whole of such arrears within the said fifteen days:

Provided that, if a zamindar omits to avail himself of the means provided by this Regulation for realisation of any arrears of rent due in respect of a share or a portion of a *patni taluk*, he shall not be entitled to put up for sale under this Regulation the entire *patni taluk* for recovery of such arrears.'

4. That in clause 9 (*a*), lines 2-3, for the words 'up to the date of sale' the words 'up to the date of deposit' has been substituted.

5. That in clause 11, in proposed section 17A, line 6, for the figures '1939' the figures '1940' has been substituted.

(Sd.) M. AZIZUL HAQUE,

CALCUTTA, *Speaker,*

The 6th August, 1940. *Bengal Legislative Assembly.*"

SECRETARY to the COUNCIL: Sir, the second message is as follows:—

"The Bengal Revenue Charge Expenditure Bill, 1940, as passed by the Bengal Legislative Assembly at its meeting held on 6th August has been duly signed by me and is annexed hereto. The concurrence of the Bengal Legislative Council is requested.

(Sd.) M. AZIZUL HAQUE,

CALCUTTA, *Speaker,*

The 9th August, 1940. *Bengal Legislative Assembly.*"

Sir, I lay the two Bills, as received from the Assembly, on the Table.

Communication regarding India Government's Decision.

SECRETARY to the COUNCIL: Sir, I have received the following communication from the Additional Secretary to the Government of Bengal, Home (Constitution and Elections) Department:—

"FROM P. D. MARTYN, ESQ., I.C.S.,

Additional Secretary to the Government of Bengal,

TO THE SECRETARY, BENGAL LEGISLATIVE COUNCIL.

Calcutta, the 3rd August, 1940.

SUBJECT: *Recruitment of Bengalis in the services under the Government of India.*

SIR,

In continuation of this Department letter No. 416 A.R., dated the 13th March, 1940, regarding recruitment of Bengalis in the services under the Government of India, I am directed to state that the Government of India who were addressed to the subject, have intimated that they are unable to take the action suggested by the Bengal Legislative Council in the address presented by them to His Excellency the Governor of Bengal on the subject noted above. They have stated that recruitment on an all-India basis to the civil services and departments of the Government of India is generally made through the Federal Public Service Commission by competitive examination or by selection. The examinations and selections are open to candidates from all provinces who possess the prescribed qualifications, the only exception is the Indian Audit and Account and allied services examination where the number of candidate is limited. In this examination, however, the Federal Public Service Commission are by rule enjoined to see and do in fact see, that all provinces and communities are duly represented. As regards locally recruited services, recruitment areas have been fixed for some subordinate services and ordinarily persons belonging to those areas are recruited for the services.

They have further stated that the question of provincial representation as distinguished from the representation of the minorities has been considered by them on several occasions and the conclusion reached was

that it was not practicable to take special measures to secure representation for provinces either generally or in terms of particular communities.

I have the honour to be,

SIR,

Your most obedient servant,

(Sd.) P. D. MARTYN,

Additional Secretary to the Government of Bengal."

Motions for Presentation of Addresses to Governor.

Mr. PRESIDENT: The House will now consider motions under rule 112 of the Bengal Legislative Council Procedure Rules.

Before I ask Mr. Lalit Chandra Das to move his motion, under section 92 (*1*) of the Council Rules I fix the maximum limit for the discussion of his motion to be one hour, and under sub-section (*3*) of the same rule the time for the mover and the Hon'ble Minister in charge of the Department 15 minutes in the first instance, and for other members six minutes.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I beg to move that an address be presented to His Excellency the Governor of Bengal, through the Hon'ble the President of the Bengal Legislative Council, requesting His Excellency to urge on His Excellency the Viceroy and the British Government to start without any further delay military colleges in University centres to train Indian students as officers in the Army, Navy and Air Services and to raise out of them armoured and motorized divisions for defence of India against external aggression and internal disorder.

Sir, there was a story current in the beginning of the last Great War that a certain Judge of the Calcutta High Court enquired of Dr. Rash Behary Ghose as to what he and his people would do were the Germans to invade Calcutta to-day.

"My Lord," said Dr. Ghose, "we will rush to the Prinseps Ghat and present the invading General with an address of welcome, for that is exactly what you have taught us to do". The story points to a moral but the Britishers have not profited by it.

Sir, non-violence is of sterner stuff. It would non-co-operate with an invading army and challenge it to do its worst. Such non-violence is for the strong, not for the weak. We have to take note of my friends Khan Bahadur Naziruddin Ahmad who is so frail and weak and others of their bent of mind. Could it be said of India that her people have reached such a high state of culture and discipline that India could meet violence with non-violence? Sir, the honourable Mr. K. M. Munshi and the honourable Mr. Rajagopalachariar, two great followers of Mahatma Gandhi, did not hesitate to employ the armed forces of the State to maintain Law and Order within. So did Mr. Gobinda Vallav Pant and other Congress Ministers.

Sir, while non-violence will remain always the guiding principle of the lives of all Congressmen in their daily dealings and in their legitimate agitation for attainment of freedom for India, they will not fail to take note of the world condition and try to preserve the integrity of their State against internal and external foes by taking all steps and making all arrangements for defence such as is permitted by human ingenuity. Sir, empires are crumbling to pieces. Poland, Norway, Holland, Belgium and France have all fallen a prey to aggression as before them fell Abyssinya and Manchookuo. We can no longer rely on the protecting arm of one single power, however big it is.

Sir, we must, therefore, demand the establishment of Military colleges in the University centres to train students to serve as officers in the land, sea and air forces.

Science has revolutionized the method of warfare and brought distant countries quite near. It is confined no longer only to trench-fight. Germans studied the modern method and developed it to perfection with their characteristic thoroughness during a period when all her neighbours were busy in the pleasant task of piling money upon money and were rolling in the mire of luxury. The result has been that though the Poles and the Norwegians, the Dutch and the Belgians and above all the French were fully the compeers of the Germans in point of bravery, they had to go down before the German *Blitzkrieg* which is lightning war carried on by armoured and motorized divisions supported by air force. I do not say that the Germans had no massed formation of infantry. They came afterwards and had to play the concluding part of rushing to the occupation of territories.

I have no doubt, the Britishers as a result of their experience in the different theatres of war have profited by the example and are now thoroughly prepared to meet the Germans on their own grounds. But the Britishers will be thoroughly pre-occupied on their own account. What about India?

Sir, the British Universities, in fact all Universities in the belligerent countries except India, are empty. All students are being

drilled and trained to serve as officers in the Army, Navy and Air Forces. In point of bravery and skill, the Britishers are now believed to have attained the same degree of efficiency as their enemies. In defending the British Isles and their far-flung Empire, all the best qualities of the British students are being brought into full play.

The war is spreading and coming nearer home. Should our students sit with folded hands and watch the onrushing tide? Sir, it behoves the British Government and the Government of India to give up their traditional policy of distrust of Indians and replace it by a policy of trust and fairness to India and Indians and so to teach them the art of defence under modern conditions. This is a debt they owe to India and it is time they discharge this debt. The best way in which they can do so will be to act up to the resolution which is now under the consideration of this House.

Sir, soldiers serving in the infantry without large divisions of armoured and motorized troops to support and precede them, aided by the air arm of the whole force, will only make them cannon-fodders. There must be an inexhaustible supply of officers to lead the armies. India can supply thousands of students having the requisite qualifications to easily grasp the technique of military science. The days of illiterate soldiers and individual acts of chivalry are gone never to return. If in spite of all these, the British Government and the Government of India fail to take appropriate steps to give them proper military education to make them fit to serve as officers, history will record that in one of the most critical periods of human civilisation, Great Britain failed to do its duty by India.

Sir, no country in the world could have dared to challenge England if England had followed a policy of trust in regard to Indians and given them liberty which she herself prizes so much. A free India would have established Military Colleges and made her sons fit to hold India against all invaders and lent England such aid now which would have outbid the help of all the colonies put together. Even now, India has not been declared free, although there is something like an approach of a promise to freedom.

Sir, the establishment of Military Colleges in the Universities centres for training Indian students to serve as officers in the air, land and sea is the acid test of the British sincerity of purpose to concede self-government to India. The speed with which such colleges are established will be the measure by which England will be judged as to how soon it intends to free India, for self-government presupposes the ability of India to defend herself and her own hearths and homes against foreign invasion and internal disorder.

Sir, it may be argued that there is one Military College at Dehra Dun but it is far away from centres where students congregate. This

is not enough. What is wanted is a ring of military colleges in all the university centres throughout India to make military education available to all students and to provide for an inexhaustible source of supply of strong and efficient officers.

Sir, a common training of Indian students, irrespective of their caste, creed or sect, will establish a bond of fellowship among them and with their British fellow-officers. Here, both the Hindus and the Muslims will shed their communalism and begin to realise in all earnestness that they are but the sons of a common motherland. Their military education will so broaden their outlook that I have no doubt that they will create a new history for India which will revive all its old glory and enable her to play her role in the re-shaping of the world and its true human culture.

Sir, in exercise of powers vested in them by Rule 1 and Rules 58 and 59 of the Defence of India Rules, the Central Government have issued orders declaring all voluntary organisations for the defence of internal tranquillity illegal. It is opined that except the civic guards, people of voluntary organisations do not stand for Law and Order but will take advantage of any disorder which may arise in India. The civic guards, in our view, acting under the ægis of the police force, will not answer the purpose of the resolution which stands on a quite different footing. Civic guards, to my mind, will be quite unable to maintain peace and tranquillity even with the help of the police if disorders break out in India which is itself a miniature continent. This task must be left to armoured and motorized divisions of troops with the air force acting in conjunction. And those troops should be composed mostly of students of the different universities in India trained and drilled into efficient officers for the army, navy and air. Thus can a widespread rising be quelled in India in the shortest possible time.

Sir, the imperialists have a way of understanding the expression "Defence of India" to mean also fighting in the different theatres of war in their far-flung Empire and even outside it. But that is not how we understand the word. We have no empires to extend by occupying "no man's" lands. Defending India would, therefore, mean defending India when she is attacked. But this does not exclude helping an ally—for instance, England.

Sir, as defence is an All-India question, the cost of the military colleges should fall upon the Imperial Exchequer and will not be a provincial charge.

I know it will be said that the Government of India announced its intention to recruit a lakh of people to serve as soldiers and anybody willing to get military training may join it. Regard being had to the urgency of the situation, this estimate is an under-estimate. This unit, however, is raised for Imperial purposes, for employment

wherever necessary to meet the exigencies of the time. But what I am putting forth through my motion is that the education of the Indian students should be made complete by a thorough military training so that they may go as officers to serve permanently with equipments and to withstand the attacks of the most powerful army in the world.

Under the circumstances, I would urge that all well-wishers of the country should support it as a pre-requisite condition for the preservation of liberty which we all desire and must have.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved that—

"An address be presented to His Excellency the Governor of Bengal through the Hon'ble the President of the Bengal Legislative Council, requesting His Excellency to urge on His Excellency the Viceroy and the British Government to start without any further delay Military Colleges in University centres to train Indian students as officers in the army, navy and air services and to raise out of them armoured and motorized divisions for defence of India against external aggression and internal disorder."

Notice of an amendment by Mr. Nur Ahmed was received in the office, only this morning. If there is no objection, I will allow the amendment to be moved.

Mr. LALIT CHANDRA DAS: Sir, I object to this because he has dropped some important words from my motion.

Mr. RANAJIT PAL CHAUDHURI: Sir, I believe there is a technical difficulty in allowing this amendment, because under Rule 92(*1*) we need five days' clear notice for such amendments.

Mr. PRESIDENT: I wanted to know if there was any objection. As there is objection, I disallow the amendment. The amendment should have been sent at least three or four days before.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I rise to offer my whole-hearted support to the motion of my friend Mr. Lalit Chandra Das.

It is high time that the Government is moved out of its age-long inertia in respect of training our young men in higher military arts. No time has been more opportune than now for the Government to depart from its old cast-iron policy of neglecting the question of our military training.

I would not, Sir, enter into the history of our national demand both for proper training and for admission of our nationals to superior posts

in the Army. It is only pertinent to observe that from its very first session in 1885 the Indian National Congress kept the Government well posted with regard to this demand. For long, however, it was rejected almost unceremoniously by unimaginative and short-sighted Governments. The shock of the last war moved our rulers to some extent out of this policy of exclusion. But even then the policy of distrust was not abandoned frankly and boldly. That the British Government in India was unwilling to provide proper opportunities for superior military training to our young men is illustrated best by sad and unimpressive history of Indian Sandhurst.

I believe, Sir, the emergency of to-day should awaken the Government out of the regrettable policy of indifference to, and neglect of, our national demand. I know, Sir, that Military Colleges which we are asking to be established cannot be brought to an working order in a day. But in an emergency things can be done in days what in normal times it takes months and years to do. Any how, without loss of time the authorities should put their shoulders to the wheel. With these few words, Sir, I support the motion of Mr. Das for the presentation of an address to His Excellency.

Khan Bahadur NAZIRUDDIN AHMAD: Mr. President, Sir, I find that contrary to his old traits of bluff and bluster Mr. Das has indulged in a little irrelevant wit by characterizing me as a "frail body with a weak mind." He has certainly a bigger body than mine and if lung power is any indication of mental vigour and power of wit, and if it is any measure of the independence we are going to secure thereby, he has certainly given us enough. His thunders are only stage thunders and his loud talks never mean business. I feel, Sir, that the total amount of sound waves Mr. Das has generated in this House if harnessed by a scientist, would be enough to blow up the entire German army! I believe that instead of wasting his energies in big talks of wordy pyrotechnics, it would have been better for him to sit down quietly to solve India's future problems. (Mr. SHRISH CHANDRA CHAKRAVERTI: What is your solution?) My goal is independence. But independence cannot be obtained to-day. It cannot be obtained even to-morrow. Independence is therefore not our immediate goal, but our ultimate goal. Our immediate objective is Dominion Status after the War. (Interruption from the Congress Benches.) Perhaps my friends are not satisfied and my declarations will never satisfy them. But I have the satisfaction that these views have been given out by a great authority who commands greater respect than my humble self or even the great Mr. Das. (Mr. SHRISH CHANDRA CHAKRAVERTI: Who is your great authority?) I was merely paraphrasing the opinion of no less a person than Sir N. N. Sircar who is certainly a greater person than both of us. Sir Nripendranath thinks that threats of Satyagraha, talk of independence, of immediate Dominion Status and immediate

severance of connection between India and England, will lead us nowhere. These will lead us to confusion of thought and action. In these circumstances, it is far better for us to sit down and try to think out ways of securing independence. In fact, independence cannot be obtained by talking. My friend seems to think that if we shout "Independence, Independence, Independence", it could be secured by magic. As a practical step, it is far more useful to sit down and make up our mind as to what we should do with the recent declaration of His Excellency the Viceroy. You must tackle that problem. It is no use getting away from it. You must face the situation and take a concrete view as has been recommended by Sir N. N. Sircar. (Mr. SRISH CHANDRA CHAKRAVERTI: Now you are a votary of Sir N. N. Sircar.) When you talk sense, we are with you. When you are after a face-saving formula and talk and talk and talk and deal in unpractical schemes, we are not with you.

Now, are you prepared to combine and unite with the various sections and parties in India and add your legitimate weight, your enormous power over the electorates and the masses to theirs for the common good of the people? Are you prepared to throw your weight and strengthen the Executive Council of the Viceroy? Are you prepared to do that? This is, I believe, the true beginning, and if you make a good beginning, then you will really lay down the foundation of a future independent India.

Mr. LALIT CHANDRA DAS: Mr. President, is he talking on the resolution? Is he relevant?

Mr. PRESIDENT: Order, order. The honourable member will come to the resolution itself.

Khan Bahadur NAZIRUDDIN AHMAD: If you are still sitting on the fence and do not choose to solve this problem, then these pious resolutions are an attempt to secure "a face-saving formula," to quote Sir N. N. Sircar, "which will help in undoing the mistake of the resignation of Ministers." Now, Sir, my friend thinks that the establishment of an indiscriminate number of colleges—a ring of colleges all through the land—will solve the country's problem. But what about the candidates? I know to my utter disgrace and shame that five candidates for military training were recently selected in Calcutta. They were asked to go to Simla for interview, and I know that one of them only went and four others did not present themselves. They had been offered first class passage and allowances, but they did not avail themselves of that. I have this on the authority of the solitary candidate referred to by me.

Sir, I submit that instead of talking like this, you should begin in a co-operative way and join the other parties in laying the foundation

for the future. If you do not do that, it is useless to talk of military colleges everywhere. You have not calculated the cost. You must be assured of a steady flow of students. You must be satisfied that the sites are suitable from a climatic or other considerations. If you do not consider these matters, it will be meaningless to go up to the Government of India with a pious but impractical resolution. I know, Sir, that a man who has no money has enormous and beautiful plans but a man who has money is more realistic and more responsible and can indulge only in modest plans. My friend, Mr. Das, has no money and is not responsible for the same and therefore he dreams wonderful things. The Council is not a debating society and we must not record mere pious wishes. I believe, instead of declaring an opinion that we should have a large number of military colleges scattered throughout the country and passing an absurdly and meaninglessly specific scheme of military colleges, it would be far better to declare an opinion that we are for more military training and more constructive work.

(At this stage the honourable member reached his time-limit and resumed seat.)

Mr. NUR AHMED: Mr. President, Sir, I have very carefully gone through the motion of Mr. Das, and in my humble view the wording of his motion is too vague, and it will not be possible to give effect to that motion if carried. Of course, there are no two opinions in the country that the regular army should be Indianised without any further delay. This question has been raised from every platform and every press, and Indians have been agitating for the Indianisation of the army since 1911 when the great son of India, Mr. Gokhale raised the question in the Imperial Council at the time of discussion of the military budget. That question has been looming large in the Indian horizon since the great World War, and Indian educated classes have come out with concrete suggestions for the Indianisation of the army and for facilities for recruitment of Indians for the King's Commission. But the idea with which Mr. Das comes before the House is absurd and impracticable. He wants as many colleges as there are universities. You should remember that there are 19 universities in India at present. So, the resolution wants 19 military colleges. How far that will be practicable and how costly it will be, that has also to be seen.

As things stand at present, since the time Indians were shut out from the army they have lost all affection for it. It is not possible for a nation, for a community, to be made military-minded in a day or two. It will require time. Of course, I am conscious of the fact that there is a great danger looming large before India, and there is every possibility of the great War that is raging in Europe spreading to India. India now finds herself very helpless in the face of the great

marauding foe, and it will be great shame if India cannot defend herself in such a crisis and has to depend on others for her defence. So, although I have every sympathy with Mr. Das, I cannot support his motion in its present form. Committee after committee had been formed to consider this matter, and the Skeen Committee reported that at least 50 per cent. of the King's Commission should be Indianised before 1952, and military colleges should be opened before 1932. Unfortunately their suggestions were not accepted.

With these few words, I am sorry to say, Sir, that I cannot support the motion of Mr. Das in its present form.

Mr. A. F. STARK: Mr. President, Sir, if I rise, it is only to add a few words to the words of wisdom which we have heard from Khan Bahadur Naziruddin Ahmad. Indeed, the weak mind and frail body has given us things to think about. I only wanted to say that independence is something that has to be obtained by co-operation between the communities. If you will take the offer of His Excellency the Viceroy and if the communities will work together, the independence you are looking for will be found. I think it was Mr. M. N. Roy who described the resignation of the Congress Ministry as a colossal blunder, and many of us wonder if they are not beginning to agree with him. Sir N. N. Sircar has also reiterated Mr. M. N. Roy's words.

As regards the resolution before the House, we all have sympathy with the idea behind it. But we know that it is a question of funds about which the Congress representatives in the Central Assembly unfortunately have not been very sympathetic. India's man-power, India's army, navy and air force are being expanded as quickly as can be, with the financial resources which are available. Honourable members will remember that not very long ago a resolution was discussed in this House, I think moved by Mr. Ranajit Pal Chaudhuri, which recommended physical and military training in all universities and colleges. The Hon'ble Home Minister in reply referred to the Calcutta University Training Corps and pointed out that it had not been an altogether successful experiment. We have got to think of that too. I think the opinion of this House was then that we must start with physical training and try to get proper physical training introduced in colleges.

I would just like to conclude by saying that it is all a question of funds. We are spending a great deal of money which has not been provided for in the Central Budget at the moment and which will have to be found, and I do believe that the Government of India are now using every endeavour to expand the war effort.

Mr. RANAJIT PAL CHAUDHURI: Sir, I had no intention of speaking on this resolution but I am thankful to Mr. Stark for having

refreshed my memory, because I now remember that a few months ago I brought a similar resolution. It was not meant to be an address to the Governor but it was a resolution in this House which I had moved. Unfortunately, it was defeated, and it was defeated not for lack of support of this side of the House, but for lack of support from the other side of the House. I do not know how far the statement of Khan Bahadur Naziruddin Ahmad is true to his knowledge. It might have been his information that out of six candidates only one had gone. I know of cases, in fact, I have got my relations who have already joined, and have gone up for the interview. Very many of them have been selected and they are now on their way to Mhow and Dehra Dun for training.

I am glad to find that Government has made a move in this matter, but I think Mr. Das's intention is to make a much greater effort in training up our boys. I am sure it is high time that Government should consider this motion seriously and take it up, because it is time that we should be up and doing. With these few words, Sir, I heartily support the motion of my friend, Mr. Lalit Chandra Das.

Rai Sahib JATINDRA MOHAN SEN: Sir, I rise to support the motion of my honourable friend Mr. Das. Mr. Stark has said that he has every sympathy with the object of this motion. Now, the question is whether this House should address His Excellency the Governor of Bengal for initiating a proposal which is set out in this resolution. So far as the resolution is concerned, I fail to understand that there is any question involved in regard to the degree of independence that the British Government should confer on us, what form of Government India should have after the War or what sort of pronouncement the British Government should make at the present moment. The question is whether we the Bengalis, or whether the Indians, should have a sort of military training and whether our boys should have this training when they are in the universities. This is to my mind a simple question which is involved in this motion. I am afraid there is a sort of confusion of ideas in the minds of our friends on the opposite; and whenever any proposal comes forward from my friends to my right or from this side of the House, we find that they are in a mood to oppose them. It may be a pious wish; but pious wish is the first thing which moves us into action, and if we can accept this resolution without any opposition, I should think we could go a great way in paving the way towards the goal which every one of us has in mind.

I am sorry, Sir, to find a sort of defeatist mentality in the speeches of the previous speakers who spoke from the Coalition Party. They find impracticability in this motion. They say that it is very unpractical and an impossible proposition, and so on. I feel, and we

know as a matter of fact, that independent people like Japanese, Germans and Russians, have adopted this principle of imparting military education while their boys are in colleges. They set apart a certain portion of the year, two or three months, for military training. These boys are required to be in camps for two or three months in the year. This does not interfere in any way with their academic studies. With regard to the question of finance, it would not be an impossible or difficult thing, because money could be found when the purpose is good, and I believe money would always be forthcoming.

With these words, I wholeheartedly support the motion of my friend Mr. Das.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, at the outset, I must say that I welcome the change of outlook of my friend Mr. Lalit Chandra Das, and I hope that he gives expression to the views not merely of himself but of all of those who are of his way of thinking and that he and his collaborators have at last given up non-co-operation and are anxious to co-operate with Government in their War efforts——

Mr. NARESH NATH MOOKERJEE: We want military training.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Military training with a view to help War efforts. As my friend Mr. Stark has said, the best way of achieving the object is to accept the offer that has been made by His Excellency the Viceroy. I hope my countrymen will accept with alacrity and gratitude the hand of fellowship that has been offered by His Excellency.

As regards the resolution itself, establishment of military colleges is not the responsibility of the Provincial Government. But we do undertake to forward the debate of this House and the decision of this House to the Government of India (Mr. SRISH CHANDRA CHAKRAVERTI: Without any comments?). But as regards details, I venture to submit that probably it is not a practical proposition to have military colleges at every university centre. It means a mint of money: military college means a large expenditure. The Government of India are no doubt anxious to impart military training to a larger number of students, but I do not know whether it would be possible financially and administratively to have one military college at every university centre. Personally, I feel that it is an impracticable proposition. But I welcome the sentiment which the mover of the resolution has expressed and the spirit that underlies the resolution. As an Indian, I feel inclined to share the honourable mover's desire. The matter must, however, be left to the Government of India whose

responsibility it is and that Government should decide whether it is possible to give effect to the resolution or not. With these few words, I express my views on the motion.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to correct an inaccuracy of my friend Rai Sahib Jatindra Mohan Sen. He has said that whatever comes from the opposite side are opposed for opposition's sake. That is not at all correct. I wish to remind him that only on the last non-official day when a resolution regarding military training of Bengalis was tabled by Rai Bahadur Keshab Chandra Banerjee, we all supported that resolution wholeheartedly. So, it is not correct to say that this side opposes everything that comes from the opposite side. On the other hand, we have said with regard to the motion of Mr. Das that we have entire sympathy with the motion, but the form in which it has been put is not acceptable to us. That is the attitude of this side of the House.

Mr. HUMAYUN KABIR: Mr. President, Sir, I should like at the outset to congratulate Sir Bijoy for his spiritual acceptance of this resolution; he has accepted the spirit, though not the body, of the resolution; but very often the spirit is another name for the pale ghost of the body which we do not want to accept. I would remind Sir Bijoy that he is himself, if I am not wrong, a lieutenant and that he was trained in the Calcutta University Training Corps; I would also remind him that he has worked his way up to a lieutenantship probably from the rank of a common soldier. He must have started—and if I am wrong he will correct me—as an ordinary soldier in the Calcutta University Training Corps. Sir, the main object of this resolution, as I understand it, is to prevent this sort of wastage of the materials available in our universities. I do not know whether Sir Bijoy knows that in all the British universities there is an Officers' Training Corps attached to every university; and that the young men who come to the universities are trained as officers of the army. It is not in every case that there is a regular military college attached to a university. For professional soldiers there are colleges which are different from university colleges, but every university in England has attached to it an Officers' Training Corps.

Sir, I understand that Government is prepared to accept the spirit of the resolution. I take it that the spirit of the resolution aims at this kind of utilisation of our young men by giving them training for officership and not merely training for the ordinary rank and file. As pointed out in the resolution itself. Indian students should be trained as officers in the army, navy and air services and that armoured and motorized divisions may be raised out of them for the defence of India. Thus, it is suggested that the main object of the resolution

is to give facilities to our university men to acquire an officer's training and not training for the membership of the rank and file.

Then, Sir, with regard to the objections raised relating to financial difficulties, it has been suggested that the expenditure for this purpose will be prohibitive. I do not think, Sir, that the expenditure would be prohibitive because even now we have the University Training Corps where most of the money spent is simply wasted, no really useful purpose being served by the sort of training imparted there. The university men could be better utilised if officer's training were given to them. It is, therefore, only a question of change in the form of training which, I think, would not mean any heavy additional financial liability. I think some members of this House might know that recently in the discussions which took place in the committee which looks after the University Training Corps certain measures were suggested—measures which instead of giving training for the rank and file would provide for training for officerships—and those measures are being considered at the moment. I do not see how then the question of financial difficulty can be raised. With regard to financial difficulty it may also be said that if India could spend sixty crores of rupees every year, as at one time it actually did, on the army, there is no reason why out of these funds provision should not be made for training our nationals. The exorbitant cost of the Indian army is only due to the exorbitant rates of pay of British officers and the British rank and file. There is no reason why this white elephant should be maintained. To-day the cry is for Indianisation, and in spite of the fact that the Skeen Committee had pressed for some Indianisation, one of the grounds put forward against that scheme was that sufficient Indians were not available. That this was a lie has been proved by recent events. In the course of a few months we are having men trained for the army, the air force and the navy as well. If in the course of the last few months men could be trained under the pressure of events, if men could be trained as quickly as at present, why is it that the recommendations of the Skeen Committee could not be given effect to at an earlier rate? Recent events have shown that the pretexts then put forward by the army authorities were absolutely unfounded. Therefore, the question of financial objections are neither here nor there; and besides, where there is a will there is a way. If funds are found for expenditure which does not directly concern us, why should funds be lacking for our own needs? If such money were utilised for the Indian Defence Corps, for giving officer's training to our young men, I am sure people would not be wanting in their willingness to come forward to enlist themselves in the army——

(At this stage the member reached his time-limit, but was allowed by Mr. President to conclude his speech.)

Before I conclude, I should like to touch upon a matter referred to by my honourable friend Khan Bahadur Saiyed Muazzamuddin Hosain. He has referred to the motion which was passed by this House unanimously some time ago—a motion for military training and the raising of a regiment of Bengalis. Sir, I do not know how the members who have supported that resolution can oppose this resolution because this resolution is only a corollary to that, and, therefore, Sir, if the first resolution was carried unanimously, there is all the more reason why this resolution should be carried unanimously.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I have listened to the speeches of my friends both on this side of the House as well as on the other side, but it is my misfortune that I could not follow the speech of my friend, Khan Bahadur Naziruddin Ahmad. He was talking, I understand, of the Viceroy's speech whereas, as a matter of fact, my speech dealt with the establishment of military colleges in India. He did not touch at all on that point. So far as the speech of my friend, Mr. Nur Ahmed, is concerned, I can say, Sir, that my friend has moved an amendment to my motion which went to show that he was really in support of my motion. He also spoke about the necessity of military training, but has only changed the words of my resolution——

Mr. PRESIDENT: Order, order. That amendment is not before the House.

Mr. LALIT CHANDRA DAS: Then, Sir, I need not refer to those who spoke in support of my motion. There was a speech by Mr. Stark who spoke about co-operation. That is a good word, but co-operation must be between equals. Now, for the purpose of encouraging co-operation so that it may be effective, Indian students must be brought up as officers and must be able to do the work done by the British officers. Indian students are ready and willing and if hands of fellowship are to be extended to the British officers, this must be on terms of equality.

Then, Sir, as regards the speech of the Hon'ble Sir Bijoy Prasad, that was altogether a speech in support of my resolution, and so far as that speech goes, I have nothing further to add. So far as the speeches of Mr. Kabir and Mr. Sen are concerned, they were really the replies which I intended to give to controvert the arguments advanced against my motion.

With these words, Sir, I commend my resolution to the acceptance of the House.

Mr. PRESIDENT: The question before the House is the motion of Mr. Lalit Chandra Das: that an address be presented to his Excellency the Governor of Bengal, through the Hon'ble the President of the Bengal Legislative Council, requesting His Excellency the Viceroy and the British Government to start without any further delay military colleges in university centres to train Indian students as officers in the army, navy and air services and to raise out of them armoured and motorized divisions for defence of India against external aggression and internal disorder.

A division was then demanded and taken with the following result:—

AYES—15.

Bose, Rai Bahadur Manmatha Nath.
Chakraverty, Mr. Srish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Datta, Mr. Narendra Chandra.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Choudhury, Mr. Ranajit.
Ray, Rai Sahib Jogendra Nath.
Roy, Mr. Amulyadhone.
Roy Chowdhury, Mr. Birendra Kishore.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—23.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Barua, Mr. Dhirendra Lal.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Humayun Reza.
D'Rozario, Mrs. K.
Ferguson, Mr. R. W. N.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Laidlaw, Mr. W. B. G.
Lamb, Sir T.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra, O.B.E.
Shamsuzzoha, Khan Bahadur M.
Stark, Mr. A. F.
Talukdar, Dr. Kasiruddin.

Mr. PRESIDENT: Order, order. The House has divided: for the motion—15; against the motion—23. The motion is, therefore, negatived.

Mr. HUMAYUN KABIR: Mr. President, Sir, I beg to move that this Council is of opinion that an address be presented to His Excellency the Governor of Bengal through the Hon'ble the President of the Bengal Legislative Council requesting His Excellency to urge on His Excellency the Viceroy to take necessary steps to enable all adult citizens of British India to keep arms for self-protection without any licence.

This is a resolution about which, I am sure, no Indian member of this House will have any difference of opinion—Mr. Suhrawardy interrupts, but even Mr. Suhrawardy will not have anything to say against a resolution of this type. I am sure, Sir, that even outside this House

all Indians will accept a resolution of this type, for it is a recognition of one of the barest rights of citizenship. In every country of the world, citizens have not only the right but in certain cases also the duty of bearing arms whenever necessary, and I cannot do better than refer to the Common Law of England, as in this country we are associated with the Government of England and in most cases we refer to the law which obtains in that country. According to the Common Law of England, ever citizen has the right and the duty of bearing arms whenever necessary, and in the classical example on this matter, in the report of the Featherstone Riot Enquiry Committee (of which the members were Lord Haldane and Lord Bowen), it was definitely stated that a soldier for the purposes of quelling a riot or for maintaining order is only a citizen armed in a particular manner. I request every member of this House to pay particular attention to this phrase "that for the purposes of quelling a riot or for maintaining order a soldier is nothing but a citizen armed in a particular manner." Every soldier is a citizen and every citizen is a soldier, if the need arose. In England, therefore, it is the duty of a citizen to prevent a riot, if a riot is taking place before him, if necessary by the use of fire-arms for self-protection, for the protection of the property of others and for maintaining order. Every British citizen has the right of using fire-arms. It is only in our country, Sir, that the conditions are otherwise. In every other country of the world, citizens have every right to bear fire-arms, but in our country it is not permissible to bear fire-arms. You must go through a very complicated and unnecessary mode, and as a result of that, a very large number of citizens in our country are not entitled to bear arms at all. We are denied even the right of self-protection. The suspicion which is at the back of this attitude, the suspicion which is responsible for the present state of affairs, goes so far that it applies not only to the ordinary citizen but also with regard to those who are placed in responsible position. I think, Sir, that it was once mentioned in this House that every member of the Legislature should be given the right to keep arms without any special licence. That wish still remains a pious wish. This is not all, Sir. Even with regard to so responsible a person as the President of a Council, or the Speaker of an Assembly, the President of the Indian Legislative Assembly or the President of the Council of State in India, even exalted offices like these, I think, do not carry with them any right about keeping arms without special licence. In other words, Sir,——

Mr. PRESIDENT: I would like to correct the honourable member. The Members of the Central Legislature are exempt from the restrictions of the Arms Act. Not so the President or the Speaker of the Provincial Legislatures.

Mr. HUMAYUN KABIR: Well, Sir, I accept that correction, and say that if even the President or Speaker of the Local Legislature is not permitted to bear arms without a special licence, it is certainly an expression of an attitude which all of us in this House should condemn. In other countries, every citizen has the right to bear arms without a special licence. A person can go and purchase fire-arms and if there is any licence, it is of the merest formal type. Anyone who wants to keep fire-arms can do so, provided he has the money for it. But in our country the Special Arms Act was passed only in order to disarm, and only in order to make us forget the practice of keeping arms. Now, Sir, a peculiar situation has developed all over the world, and to-day the question of the incapacity of Indians to bear arms has become an acute problem. To-day, it is necessary not only in the interests of India but also in the interests of the British Government that India should be capable of bearing arms. And in that case it is desirable that the former attitude of suspicion, the former attitude of distrust should go, and every Indian should have the right to bear arms without licence of any type, for defence purposes. May I refer here, Sir to the English Common Law of which the Britishers rightly boast? Under that English Common Law every person has not only the right but also the duty of maintaining the Law and Order. He has the right to defend not only himself and his own property but also others and their property. Therefore, Sir, it is not only in the best interests of this country but also in the best interests of England herself that this invidious distinction between the British subjects of different lands must go. To-day, there is one thing which nobody can dispute: the old British Empire is dead never to revive. There is bound to be a tremendous change in the British Government. There may be a Commonwealth, but the old British Empire has died and is now dead, never to survive again: and the Empire's legacy of hatred, its legacy of suspicion, its legacy of distrust will never be there even though a new Commonwealth of Nations be there. And in that new Commonwealth there should be a sense of mutual trust, a sense of fellowship, a sense of co-operation between all the different nations. To-day in this House the word "co-operation" has been uttered many times. I must say, Sir, that this co-operation should be mutual, and if a new Commonwealth is to be created, then there must be that co-operation and good-will, that sense of trust and confidence as ought to exist amongst the different peoples who to-day constitute the members of the so-called British Commonwealth of Nations.

Mr. PRESIDENT: Motion moved: that this Council is of opinion that an address be presented to His Excellency the Governor of Bengal through the Hon'ble the President of the Bengal Legislative Council,

requesting His Excellency to urge on His Excellency the Viceroy to take necessary steps to enable all adult citizens of British India to keep arms for self-protection without any licence.

Mr. RANAJIT PAL CHAUDHURI: Mr. President, Sir, I rise to support this motion. It might be criticized that a motion of this nature should not be supported by the Congress; but, Sir, I want to make the position of our party clear by saying that we do not want arms for offensive purposes: we want arms to protect ourselves, we want arms for the purpose of defence. As my friend, Mr. Kabir, has pointed out, even high personages in India are not allowed the privilege of defending themselves. I would only suggest that persons who have got a certain amount of respectability should be allowed to bear arms without licence——

Mr. HUMAYUN KABIR: Why not to everybody?

Mr. RANAJIT PAL CHAUDHURI: Perhaps it would be still better if the privilege could be extended to everybody; but I do not know how far Government would be prepared to go to accept a suggestion of this nature, because there is a certain amount of responsibility in keeping arms. I, therefore, qualified it. An ordinary person might not be able to keep it safely and also to guard it, and if he fails to do so, he would get himself into difficulties in case it is stolen. Still I should advocate that everybody should have some sort of arms to defend himself; inability to defend oneself is very keenly felt in the mufassil where villages are absolutely unguarded and thefts and dacoities are committed with impunity. This is all the more possible in villages because persons there have no arms to protect themselves from thieves and dacoits.

With these words, Sir, I support the motion of my friend, Mr. Humayun Kabir.

Maulvi ABUL QUASEM: Mr. President, Sir. I rise to oppose this motion. It is much like the previous motion which the Coalition party found it necessary to throw out just now. This motion is as absurd, as unpractical and as impracticable as the previous motion. Sir, I am a new-comer here. I know that this House is supposed to be a House of Elders, free from emotion, rich in the experience of life, and in the knowledge of men and affairs; and that whatever it does and says has behind it the wisdom and sobriety of a House of Elders. I am sorry to find a different state of things. With due respect to my friends opposite, Mr. Lalit Chandra Das sponsored a motion which we have just thrown out and have justly done so, because it contained proposals which were absurd and impracticable——

Mr. PRESIDENT: Order, order. The honourable member should not refer to the previous motion, as it is not before the House now.

Maulvi ABUL QUASEM: Very well, Sir. But here a proposal has been adumbrated that every adult male and female citizen of India as a whole should be given the freedom of keeping arms; that is to say, every adult citizen of India should be allowed every opportunity of self-destruction. (Laughter from the Congress Benches.) Sir, I cannot understand what this laughter is for, but I can say this much that no amount of laughter will add any importance to their case.

Sir, what is the position of India to-day? Here, one community is opposed to another community; tribes are opposed to tribes and all too frequently there are occasions when *lathi*-charges are made by the police to quell communal and other riots. Here, if every man was equipped with fire-arms, there was likelihood of terrible communal fracas breaking out in every part of India. India certainly has not arrived at a stage when every adult citizen of hers can be provided with fire-arms without licence. Sir, this is a proposal which has been conceived in the comfortable chair of a Professor of Philosophy and of Literature; it is not a proposal of a man of experience who has knowledge of the state of affairs prevailing in India and in Bengal. You have seen how communal riots break out in the remotest villages of Bengal, and if the rioters there were armed with fire-arms instead of being armed with *lathis* and *daos*, what would be the result; what would be the dire consequences? I would ask every member of this House who has got some knowledge of the countryside to pause for a moment and answer this question. Sir, I think it is not in the interests of the citizens of India that every adult citizen should have the freedom to be provided with fire-arms without licence. I believe that even in England there are certain salutary rules against the indiscriminate and uncontrolled possession of fire-arms. In the interest of self-protection even, I think, this universal use of fire-arms should be tabooed, and I trust that like the other proposal this House will have no hesitation in throwing it out without giving it a moment's consideration.

Khan Bahadur NAZIRUDDIN AHMAD: Mr. President, Sir, I rise to support the spirit behind the resolution. This resolution wants to give expression to the opinion that all adult citizens should be given arms. Our objection is to the word "all". In fact, as has been said just now, the resolution has been framed in the comfortable arm-chair of a professor. The resolution makes no distinction between good men and bad men, between thieves, robbers and honest people, and my friend wants to give all sorts of arms to all sorts of men. My friend is probably thinking of the old Arms Act Rules. They are all changed.

Under the present rules, the only restriction against getting the licence of a gun is that if a man is a dangerous character he cannot get a licence. There is no bar to honest people getting a licence.

Mr. RANAJIT PAL CHAUDHURI: No; he must be an income-tax payer.

Khan Bahadur NAZIRUDDIN AHMAD: That is quite another matter. Here we are concerned with the rules and not with their actual application. In applying the rules some stringency is observed, no doubt. If it had been suggested that the rules should be more liberal, that would have been quite a different matter; but my friend's contention is that every one, no matter whether he is a good character or a bad character, must be given arms and without check and without licence. Mr. Pal Chaudhuri has attempted to draw a distinction between arms supplied for defensive purposes and arms for offensive purposes and has suggested that all should be given weapons for defensive purposes.

Mr. RANAJIT PAL CHAUDHURI: I did not say that all should have arms.

Khan Bahadur NAZIRUDDIN AHMAD: So much the better for me. That really supports my contention. Mr. Pal Chaudhuri, however, said that arms should be given for "defensive" purposes, as if the marking of weapons for defensive purposes would automatically prevent those arms from being used for offensive purposes. The resolution also provides that. But if arms are given for defensive purposes, they can and will be easily used for offensive purposes as well. The precaution of allowing arms for "defensive" purposes is attractive but illusory. I, however, support the spirit of the resolution which is that arms should be more freely allowed, but our difficulty is that we cannot support the resolution that arms should be given to one and all and without licence. I am of opinion that more dangerous weapons like rifles and automatic pistols and revolvers should not at this stage be given without discrimination.

(At this stage the member reached his time-limit but was allowed by Mr. President to conclude his speech.)

Sir, in conclusion, I say again that we support the spirit of the resolution but oppose its exact wordings.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, Government will adopt the same attitude towards this question as they have done towards the previous one moved by Mr. Lalit Chandra Das for,

this again is a matter for which they are not directly responsible. The Arms Act is dealt with by the Government of India and the Bengal Government is only acting as an agent of the Government of India in the matter. Therefore, we shall express no opinion on the merit or otherwise of the proposal and shall remain neutral but shall forward the debate to the Government of India, as suggested in the resolution.

Mr. HUMAYUN KABIR: Mr. President, Sir, I find that there really has been no opposition to this resolution. As for my honourable friend, Khan Bahadur Abul Quasem, I think he has not read the resolution, and since he did not oppose the resolution which I have moved but opposed the resolution which he imagined I had moved, I have nothing to say. He referred to the fact that this resolution was conceived by me as an arm-chair politician and has also given me the honour of dealing with Philosophy or Literature. I would only remind him that on some other occasions on the floor of this House resolutions have been suggested by me or measures have been moved by me which at first did not find favour with people like him but were accepted a little while after. Only two years ago, when Khan Bahadur Abul Quasem——

Maulvi ABUL QUASEM: Sir, I am not a Khan Bahadur.

Mr. HUMAYUN KABIR: If he is not one by now, I am sure he will become one very soon. I hope it would not be very long before he is made one and to anticipate events I have called him Khan Bahadur. But, Sir, this resolution does not say that every man shall be given arms. It only says that if anybody wants arms, there should be no bar to it. Everybody should be enabled to get arms if he wants it, and I think my friend Khan Bahadur Naziruddin Ahmad will have no further quarrel with me as soon as I make that point clear. It only says that if people want arms, there should be no bar to their keeping arms. In other words, it comes to the same thing that the conditions of licence should be far freer than what they are to-day. There is also something very inconsistent about the speech which my friend Khan Bahadur Abul Quasem delivered on the floor of this House.

Maulvi ABUL QUASEM: I strongly protest, Sir. The honourable member should not use that title.

Mr. PRESIDENT: Order, order. You should not use the title Khan Bahadur.

Mr. HUMAYUN KABIR: Well, Sir, Mr. Abul Quasem's argument was again entirely, if I might say, inconsistent and irrelevant,

for he suggested that people in our country should not be allowed the use of fire-arms, because they are quarrelsome, they fight with one another, and they are so martial in spirit that if they are given fire-arms, blood will flow through the river Padma in the villages of Bengal every day. Till now we have always been told that the people of Bengal are not martial, that they do not fight, that there is no fighting spirit in them. I do not know how to reconcile these two statements. and I leave it to the House to judge whether the people of Bengal are really so very martial that fire-arms in their hands wil be more dangerous than they will be in the hands of the citizens of England, Germany, France and other countries.

There is one other point with regard to the speech of Khan Bahadur Naziruddin Ahmad which I feel disposed to deal with, and that is that there is no distinction between defence and offence. Quite true, and that is precisely the reason why I have moved this resolution. To-day those who want to keep fire-arms for offence manage to get fire-arms. He referred to robbers and to other persons of an offensive character. I say it is no use to forbid arms to persons of that type. Robbers do get arms. How they do, I do not know. But they do get arms, and it is only the innocent villagers who want to defend themselves against their attack that are denied the use of fire-arms. That is also the reason why fire-arms should be made more easily available to those who want it for self-protection, and therefore the conditions of licence should be far freer, and that is the main object of my resolution.

After these words, I hope, Sir, that there will be no further objection to the unanimous carrying of this resolution.

Mr. PRESIDENT: The question before the House is the motion of Mr. Humayun Kabir: that this Council is of opinion that an address be presented to His Excellency the Governor of Bengal through the Hon'ble the President of the Bengal Legislative Council requesting His Excellency to urge on His Excellency the Viceroy to take necessary steps to enable all adult citizens of British India to keep arms for self-protection without any licence.

A division was demanded and taken with the following result:—

AYES—12.

Chakravorti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Mookerjee, Mr. Naresh Nath.
Pal Chaudhuri, Mr. Ranajit.
Ray, Rai Sahib Jogendra Nath.
Roy, Mr. Amulyadhone.
Roy Chowdhury, Mr. Birendra Kishore.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—19.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mosbahuddin.
Ahmed, Mr. Nur.
Barua, Mr. Dhirendra Lal.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Humayun Reza.
Ferguson, Mr. R. W. N.
Hosain, Khan Bahadur Saiyed Muazzauddin.
Hossain, Mr. Latafat.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Laidlaw, Mr. W. B. G.
Quasem, Maulvi Abul.
Rashid, Khan Bahadur Kazi Abdur.
Roy, Rai Bahadur Radhica Bhusan.
Shamsuzzoha, Khan Bahadur M.
Stark, Mr. A. F.
Talukdar, Dr. Kasiruddin.

Mr. PRESIDENT: Order, order. The House has divided: for the motion—12; against the motion—19. The motion is, therefore, negatived.

NON-OFFICIAL RESOLUTIONS

Mr. PRESIDENT: The House will now resume further discussion on the partly discussed resolution which was moved by Mr. Nur Ahmed on the 26th July, 1940, that—

"This Council is of opinion that the Government of Bengal should make a representation to the Government of India either to grant to Bengal the entire jute duty-proceeds realised from the province of Bengal or to make an equal annual contribution from the revenues of the Central Government to the Government of Bengal with a view to enabling the Government of Bengal to introduce universal free and compulsory primary education in Bengal."

Mr. Ross was in possession of the House on that day. I do not find him to-day.

Mr. RANAJIT PAL CHAUDHURI: Sir, I have been informed that he is unwell.

Mr. PRESIDENT: The Hon'ble Mr. Fazlul Huq.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, I will be very brief, because I have only to explain to the House the Government point of view. The question of primary education in Bengal as everywhere else is one primarily of funds, and calculations have shown that even with the strictest economy we cannot have primary education free in Bengal with the proceeds of the taxes, unless a subvention of about Rs. 2 crores were made from provincial revenues. Now, Sir, we have really gone to the utmost limit in imposing taxes on the people, and even if some more taxes are imposed, it is impossible to raise this

amount of Rs. 2 crores in order to supplement the efforts of the District Schools Boards in introducing free primary education throughout Bengal. In these circumsances, some kind of outside help is necessary, and nothing would give us greater pleasure than to get this money, if possible, from the Central Government. Bengal certainly has got great claim on the export duty from jute. At one time the Government of India used to appropriate the whole of it; but recently owing to the efforts of Sir John Anderson and for other causes, the Government of India have given us a little over 1⅔ crores and kept the rest to themselves.

Mr. RANAJIT PAL CHAUDHURI: What is the amount of the rest?

The Hon'ble Mr. A. K. FAZLUL HUQ: It is a little over 4½ crores, and we get 1 crore 67 lakhs. Therefore, what happens is that with this money we can just balance our Budget, and there is hardly anything left for us to set apart for primary education. So far as this resolution is concerned, if the House carries this resolution, we will forward the proceedings and do all we can in order to give effect to the idea underlying this resolution.

Mr. NUR AHMED: Mr. President, Sir, I am very thankful to the members of this House for giving whole-hearted support to this resolution. The only dissentient voice was raised from my European friends. Unfortunately, none of them are now in their seats. Mr. Ross, on behalf of the European Group, said that they had every sympathy with the noble object underlying this resolution, but they did not desire that the whole of the proceeds of export duty on jute should be ear-marked for primary education. They would be glad if the Government of India remitted the remainder of the duty to Bengal to enhance the resources of the Government of Bengal. They also said that it would require a tremendous amount to introduce a satisfactory scheme of primary education in Bengal. Whenever the question of primary education is raised, the question of funds comes in the way. There are no two opinions about the necessity, importance and utility of free and compulsory universal primary education. We feel every moment of our life that the nation's onward progress is retarded for want of it. We really hang our heads in shame while we find that after about 170 years of a civilised rule, only 7 per cent. of the Bengalees are literate. So, this is a burning question. I have already said in my main speech that the idea which is embodied in the resolution is not mine. It is practically embodied in one of the proposals of the recent Primary Education Committee which has recently submitted its report. It is proposal No. 6 of the financial

proposals, and it is to the effect that the Government of Bengal should immediately approach the Government of India for a subvention of Rs. 2½ crores for giving effect to the Primary Education Scheme as adumbrated by the Committee. The reason why we have adopted this course is quite obvious. The present system of allocation of revenues between the Centre and the provinces, as embodied in the Government of India Act, gives little scope to the Provincial Governments to raise so large a sum as Rs. 2½ crores. The Provincial Government here can at the utmost raise a few lakhs of rupees, but it cannot be expected to raise so large a sum as Rs. 2½ crores which is required for our present purpose. All the expansible sources of income are now in the hands of the Central Government, and that Government have therefore many resources by tapping which they can raise an additional few crores of rupees and distribute it to the provinces to meet such urgent need of theirs as the introduction and spread of primary education.

As regards the export duty on jute, it is well known to every member of this House that Bengal agitated for years together for having a share in it, to which at the beginning no heed was paid. But after persistent agitation for a number of years, half the proceeds of the jute duty was given to this province and as a result of the Niemeyer Award, Bengal has got about Rs. 1¾ crores. Sir, my present proposal is that the Central Government should remit the whole of the remainder of the jute export duty to Bengal to enable her to introduce primary education.

I have already taken much time of the House and must now conclude by hoping that the House as a whole will support my resolution.

Mr. PRESIDENT: The question before the House is: that this Council is of opinion that the Government of Bengal should make a representation to the Government of India either to grant to Bengal the entire jute duty-proceeds realised from the province of Bengal or to make an equal annual contribution from the revenues of the Central Government to the Government of Bengal with a view to enabling the Government of Bengal to introduce universal free and compulsory primary education in Bengal.

(The motion was agreed to.)

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I beg to move that this Council is of opinion that during the period of War, no official Bill evoking any communal or economic controversy should be introduced in either House of the Legislature.

Sir, I am certain that the object with which I am moving this resolution is clear to everybody in this House. It has been expressed both by the Government as well as by various groups of people in the

province that all efforts should be concentrated in conducting and winning the War against foreign aggression in which the country has been engaged for the last one year.

Sir, it is true that the Government have not yet enunciated its policy regarding our national demand to the satisfaction of the Indian National Congress and it is also true that in view of this fact the Congress has not actively co-operated with the Government in the prosecution of the War. But, Sir, none will deny that without absolute communal harmony and complete concentration of efforts, the War cannot be fought to a successful conclusion. If such concentration of efforts is actually to be brought about, is it not necessary, Sir, that the Government should avoid as far as possible those controversial questions, any discussion of which at the present moment may only divert the people's mind from War work and which may compel people to think on communal and sectional lines, instead of in terms of the struggle in which the Government is engaged? It is inevitable that when a Bill like the Calcutta Municipal Amendment Bill, or the Bengal Secondary Education Bill is introduced in the Legislature, we shall think in terms of communal interest and lose sight of the demands of the struggle. It seems to me, Sir, very strange that while the Government talks of the War and of the efforts that should be made in conducting it, it seems to forget the inevitable fact that its legislative efforts are proving to be a great obstacle in the way of creating the proper atmosphere in the province.

It seems also, Sir, that the Government does not properly appreciate the changes in our outlook and temper which may be brought about by the War if it lasts for some time to come. It may be expected by all discerning people that any legislation which may be passed by the Legislature to-day will be out of date when the War ceases. I do not see any wisdom in insisting on measures which may create bad blood among us to-day and which will be out of place in the near future. I would not enter into the details of the different controversial Bills which are either before the Legislature already or which will be placed before it in the near future. But I would like to point out here that such legislations may be postponed till the end of the War, instead of being pushed through at the present moment. With these few words, Sir, I commend this resolution to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that this Council is of opinion that during the period of war, no official Bill evoking any communal or economic controversy should be introduced in either House of the Legislature.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I have ventured to stand up to oppose this resolution. The spirit behind the resolution is this: that those who occupy the position of vested interest, key posts

in the services, and other places, their idea is that they should continue there for ever without anybody, however competent, intruding into their preserves: that is the mentality behind the cry of communalism. Now, Sir, it is easy for anyone who has eyes to see and frankness to confess that a considerable amount of communalism is practised in the name of nationalism. Whenever a competent Muhammadan or a scheduled caste or even a friendless caste Hindu candidate comes in for a post anywhere, the cry of communalism is raised to shut him out, and it is surprising how, in the name of nationalism, so many candidates of inferior calibre from the majority community are taken in. I wonder how resolutions of this kind could be fairly brought with the ostensible object of easing communal situation, whereas in fact their real object is to give expression to communal passions and to excite communal disharmony amongst different communities. The resolution says there should be no official Bill evoking any "communal or economic controversy." If there is the slightest possibility of controversy from a communal or economic point of view, the Bill should not be brought in. I do not know why Bills which have just an air of economic controversy or communal controversy should not be brought in. This House is a factory where Bills are brought in and laws are made. I do not know why Bills, of a particular character should not be brought in. Sir, the motive behind this resolution is this, that the Muhammadan community or the scheduled castes should ever remain down-trodden as they have been in the past. No doubt they are responsible for the position in which they find themselves to-day and the other community is in no way responsible for that, yet it is time that the Muhammadans and the scheduled castes should have an opportunity to serve their country. If it is suggested that if a Muhammadan or a member of the scheduled caste enters a service which is now the monopoly of the caste Hindus, everything would be lost, it implies that they want to make the Muhammadans and the scheduled castes a kind of untouchables in political life. The very idea is absolutely intolerable. I submit, Sir, that this attempt to spread and create disharmony among the communities will not succeed. In spite of this attempt, Hindus and Muhammadans are living peacefully in the villages and there is not much trouble there. The cry of communalism comes from the semi-educated and politically-minded people. But people—Hindus and Muhammadans—outside the political influence are still living together in peace and they will do so for all time to come in spite of this attempt.

I submit, Sir, that the desire of the Muslims to dig in their share in the public services is the natural bye-product of the continued subversive propaganda carried on by our nationalistic Hindu brethren. It is absurd to expect that their cry of independence, their cry of non-co-operation, their continued propaganda for organized law-breaking

will affect the Hindus only and will not move the Muhammadans. The crux of the problem is that the universities are manufacturing a much larger number of candidates than there are vacancies in the services. If there are 500 or a little more vacancies in the Government offices, the eligible candidates annually produced by the Calcutta University alone are 15,000 or 20,000. That is the real problem today. The Muhammadans are trying to solve their bread problem and can you honestly blame them for it? The supply has exceeded the demand and this has created this situation. In these circumstances, behind the ostensible purpose of communal harmony, the attempt to oppose any natural and reasonable desire on the part of Muslims and scheduled castes to be useful to the country, is very deplorable. I, therefore, submit that resolutions like this should not be brought in and, in the interest of communal harmony, such resolutions should be discouraged. With these words, I humbly oppose the resolution.

Mr. NUR AHMED: Sir, I rise to oppose this resolution. From the language of the resolution I find that it is too sweeping as it uses the word controversy and think that the honourable mover would have been better advised if he had drafted a resolution requesting this House not to pass any legislation whatsoever. But the important question is, who is to decide whether a Bill brought before this House raises any communal or economic controversy. Nobody can prevent a class of persons or a particular community from raising any controversy on any legislation introduced in this House. So, from the practical point of view, I oppose the resolution. Sir, communalism is causing havoc in this unfortunate land of ours and it is all the more unfortunate that in the garb of this resolution my learned friend has brought the communal question to the forefront. It is very regrettable to observe that most of the resolutions evoking communal controversy have been brought in this House by that very group who have been pressing for all-India unity and who have given out that they are the only people who stand for nationalism and do not want to be guided by any communal considerations whatsoever. But from this very resolution it is apparent that they stand for rank communalism. Sir, I hope to be excused for making this assertion, but I could not help doing so. Had this resolution been given effect to in the past, such useful pieces of legislation as the Bengal Tenancy (Amendment) Bill and the Bengal Money-lenders Bill, the Bengal Agricultural Debtors Bill, would not have found places in the Statute book by this time. It seems strange to me how a similar legislation passed by the Congress Ministry has been hailed as a nation-building and beneficial measure, while such legislations passed by the Bengal Ministry have been characterized as communal. I have tried to compare the provisions of similar Acts—the Money-lenders Act of Bihar and Agriculturists Act and similar Acts in the Punjab and Madras and in other provinces, and I found

that the Bengal Acts compared very favourably with those of the other provinces. But in passing these beneficial and useful measures this Ministry has been characterised as communal, and an agitation has been going on in the country for withdrawing these legislations.

With these few words, Sir, I oppose the resolution.

Mr. PRESIDENT: Order, order. The House stands adjourned till 2-15 p.m. on Monday.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 12th August.

Members absent.

The following members were absent from the meeting held on the 9th August, 1940:—

(1) Mr. Kader Baksh.

(2) Rai Bahadur Keshab Chandra Banerjee.

(3) Khan Sahib Abdul Hamid Chowdhury.

(4) Khan Bahadur Rezzaqul Haider Chowdhury.

(5) Mr. Kamini Kumar Dutta.

(6) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(7) Mr. Mohamed Hossain.

(8) Alhadj Khan Bahadur Shaikh Muhammad Jan.

(9) Maulana Muhammad Akram Khan.

(10) Dr. Radha Kumud Mookerji.

(11) Mr. J. B. Ross.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 12th August, 1940, 2-15 p.m. being the ninth day of the Second Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

The Chittagong College.

38. Mr. NUR AHMED: (a) Will the Hon'ble Minister in charge of the Education Department be pleased to refer to his answer given to clauses (b) to (d) of question No. 136 of the 11th January, 1940, and to state if any final decision has been taken by the Government in regard to matters mentioned therein?

(b) If so, what final decisions were arrived at by the Government and has the scheme referred to in the said clauses (b) to (d) been finally sanctioned by the Government? If not, when would they be sanctioned?

(c) Is it a fact that the boys obtaining degrees from the Chittagong College would be handicapped in getting admission to the Agricultural College of Dacca for want of affiliation for the Chittagong College in Botany?

(d) Is it a fact that the Chittagong College is under-staffed in the Persian and Arabic Departments and that there has been an insistent demand for the affiliation of the Chittagong College up to the Honours standard in Economics, Chemistry, Physics and Botany in the B.A. and B.Sc. courses? If so, have any measures been adopted by Government to remove these needs of the only first grade college in the whole of Eastern Bengal? If so, what are they? If not, why not?

(e) When will the proposed second grade college and training school for females at Chittagong be started?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): (a) and (b) Since the publication of the last Quinquennial Report, two posts of lecturers, one in Bengali and the other in Arabic and Persian, have been created. Affiliation has been granted in Civics up to the Intermediate standard and in Economics

up to the B.A. (Honours) standard. A sum of Rs. 1,000 has been sanctioned for the library and a second gas plant has been constructed. Schemes for the extension of the College buildings and of the Science laboratory are still under examination.

(*c*) Yes.

(*d*) There is no proposal either for strengthening the staff in Arabic and Persian or for affiliation in Chemistry, Physics and Botany up to the Honours standard in B.A. and B.Sc.

(*e*) A scheme for establishing a first grade Girls' college with training facilities for women teachers is under consideration, but it cannot be stated definitely at present whether and if so, when, this scheme will mature.

Stipend to teachers of primary schools.

39. Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) the amount of a stipend per month given to each trained teacher for primary schools in the districts of Bankura and Midnapore;

(*b*) the number of teachers who were under training in the Guru Training Schools in those two districts in 1936, 1937, 1938 and 1939, respectively;

(*c*) the number of trained and untrained teachers in the primary schools of the abovementioned districts in 1936-37, 1937-38, 1938-39 and 1939-40, respectively;

(*d*) the amount of stipends given to each trained and untrained teacher in the abovementioned districts in the periods mentioned above; and

(*e*) the total sum given to trained and untrained teachers from Imperial Grants and the District Fund in the aforementioned periods in the districts mentioned above?

The Hon'ble Mr. A. K. FAZLUL HUQ: I regret to say that it has not been possible to procure the information as yet.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to tell the House when the information will be available?

The Hon'ble Mr. A. K. FAZLUL HUQ: We are still enquiring into the matter and the information will be placed before the House as soon as it is ready.

Appointment to the post of Principal of the Serajganj College.

40. Mr. SHRISH CHANDRA CHAKRAVERTI: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact that a Muhammadan gentleman residing outside Bengal has been appointed as Principal of the Serajganj College?

(*b*) Is it a fact that no qualified Bengali-Muhammadan was available for the post? If so, is that the reason for appointing the said gentleman to the post? If not, what are the reasons for such appointment?

(*c*) Was no Bengali-Hindu available for the post? If so, on what grounds were not Hindu-Bengalis given a chance?

The Hon'ble Mr. A. K. FAZLUL HUQ: I regret to say that it has not been possible to procure the information as yet. As soon as the information is available, it will be placed before the House.

Upper primary schools and madrasahs in the district of Jessore.

49. Mr. K. C. ROY CHOWDHURY: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) the number of upper primary and lower primary schools and madrassahs in the district of Jessore;

(*b*) the names of the villages in which these schools are situated;

(*c*) the amount of grant-in-aid given to each school and madrassah every month; and

(*d*) the dates of the last payments of such grant-in-aid to each school and madrassah?

The Hon'ble Mr. A. K. FAZLUL HUQ: I regret to say that it has not been possible to procure the information as yet.

Tuberculosis hospital in the Comilla Jail.

50. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is fact that for *mufassil* Bengal, there are only two central jail hospitals for convicts suffering from tuberculosis, one of which is located in Comilla and the other at Suri, and whether, of these two, the one at Suri is inferior to that at Comilla as regards accommodation and equipments;

(*b*) whether the tuberculosis hospital at Comilla is housed in a corrugated tin-shed in the midst of the main jail with a population of 791 prisoners;

(*c*) what is the population of the Comilla Jail now;

(*d*) whether that tuberculosis hospital has but one hall facing west; what is the length and breadth of the inside room which houses the patients and how many of them are now in it and whether they are not too many for this one room;

(*e*) how many convicts in the Comilla Jail have been segregated as being suspected of tuberculosis and where are they being lodged;

(*f*) whether Government are aware of the grave danger of the spread of tuberculosis infection among the general population of the Comilla Jail that may be caused due to the location of the tuberculosis hospital in the middle of the main jail within one compound wall;

(*g*) whether the Government propose to demolish the present structure and construct a two-storied south-facing brick-built building outside the main jail and its wall but within the jail compound in Comilla with a view to remove the chance of spreading tuberculosis infection to other convicts and to house the patients in rooms which will admit of sufficient light and air and remove congestion;

(*h*) whether it is a fact that these tuberculosis patients in the Comilla Jail Hospital are given food three times in the day time and that nothing is given to them at night and that 13 to 14 hours intervene before they get their breakfast in the morning of the next day;

(*i*) whether the Government propose to give the tuberculosis patients light refreshments in the afternoon as in the morning and allow them such food at 8 or 8-30 p.m. in the night as is now given to them before evening;

(*j*) whether it is a fact that the cases of some of the tuberculosis patients in the Comilla Jail Hospital are very serious and alarming; how many of them are so; and

(*k*) whether Government propose to release those tuberculosis prisoners in the Comilla Jail Hospital whose conditions are very serious and whom their relations would be willing to take charge of for giving them treatment; or Government will transfer them to a sanatorium; if not, why not?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) There are two jail hospitals for tubercular patients in Bengal—one at Suri and the other at Comilla. The hospital at Suri is superior to that of Comilla both as regards accommodation and equipment.

(*b*) The tuberculosis hospital is housed in a well-ventilated corrugated tin-shed with wooden ceiling, situated in one corner of the jail.

(*c*) 784 (on 20th July, 1940).

(*d*) The Tuberculosis Hospital has a single hall facing west. The length and breadth of the inside room is—

		Feet.
Length	...	116
Breadth	...	20

There were 15 patients on 21st July, 1940, in the room which has normal accommodation for 20 patients.

(*e*) There is none at present.

(*f*) There is no danger, as all necessary precautions are taken to prevent the spread of infection.

(*g*) No such proposal is under the consideration of Government at present.

(*h*) Convalescents who constitute the majority of tubercular patients are given food three times a day. Arrangements are made to give extra food during the night for those patients that require it.

(*i*) Medical Officer has full discretion to prescribe food for hospital patients of all kinds according to their needs.

(*j*) No.

(*k*) Does not arise.

Mr. LALIT CHANDRA DAS: Arising out of (*b*), will the Hon'ble Minister be pleased to state whether it is not a fact that in spite of wooden ceiling this corrugated tin-shed is extremely hot during summer season?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, we have been advised by our experts that the building is not unsuitable for patients.

Mr. LALIT CHANDRA DAS: Arising out of (*g*), will Government consider the desirability of having a well-ventilated pucca house for these patients?

The Hon'ble Khwaja Sir NAZIMUDDIN: Well, Sir, if funds permit, naturally that would be the most desirable thing to have.

Training of convicts in cotton and jute industries.

51. **Mr. LALIT CHANDRA DAS:** Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) what is at present the number of convicts in the Comilla Jail and what are the industries taught to them, setting forth the number of convicts as against each industries taught;

(*b*) since when the spinning wheel has been introduced in the Comilla Jail and whether this practice obtains in all the jails of Bengal;

(*c*) whether Government propose to teach all convicts how to make hessian and other fabrics out of jute, which is the principal crop of Bengal; and

(*d*) whether Government propose to teach all convicts in Bengal jails the work of spinning and making fabrics out of cotton and jute, and introduce such work as one of their compulsory daily works; if not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) The population of the Comilla Jail on the 20th July, 1940, was 784 of whom 714 were labouring convicts. The nature of employment is given below: —

Oil mills	...	17
Wheat grinding	...	10
Coir pounding	...	62
Coir string making	...	32
Weaving and spinning	...	26
Tailoring	...	4
Smithy and carpentry	...	3
Cane and bamboo works	...	11
Durrie weaving	...	34
Soorkey pounding	...	19
		218
Otherwise employed in jail service, viz., garden, dairy, preparing food articles, petty construction and repairs, etc.	...	407
In hospital	...	89
		714

(*b*) Spinning wheel has been introduced in the Comilla Jail since February last. Spinning has not been introduced in all jails.

(*c*) and (*d*) Government have under consideration the question of reorganisation of industries in the jails of Bengal. A scheme will be formulated on the basis of the report of the Bengal Jail Industries Enquiry Committee which has recently been appointed.

Mr. LALIT CHANDRA DAS: Will Government be pleased to place the suggestions contained in questions (*c*) and (*d*) before the Bengal Jail Industries Enquiry Committee?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, they will be forwarded.

Books of Kazi Nazrul Islam and others proscribed by the Government.

52. Mr. MOAZZEMALI CHOWDHURY (on behalf of Mr. Humayun Kabir): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) the names of the books of Kazi Nazrul Islam, Buddhadeva Bose and Achinta Kumar Sen Gupta that have been proscribed by the Government;

(*b*) the reasons for the proscription of the books; and

(*c*) whether the Government now propose to withdraw the ban on all or any of these books; if not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) A statement is laid on the table so far as the books of Kazi Nazrul Islam are concerned. No books of Mr. Buddhadeva Bose and Mr. Achinta Kumar Sen Gupta have been proscribed.

(*b*) The books were considered seditious.

(*c*) The books are being re-examined.

Statement referred to in the reply to question No. 52, showing the names of books of Kazi Nazrul Islam which have been proscribed by Government.

1. Bisher Banshee.
2. Bhangar Gan.
3. Pralaya Sikha.
4. Chandrabindu.
5. Jugabani.

Mr. NARESH NATH MOOKERJEE: May I know from the Hon'ble Minister as to when, approximately on what date, these books were banned?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice. Long before we came into office.

Mr. NARESH NATH MOOKERJEE: In view of what the Hon'ble Minister said and considering that these books are practically the gems of recent Bengali literature, will the Hon'ble Minister kindly go into the question of the books of Kazi Nazrul Islam and see if he can remove the ban?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already stated that the books are going to be re-examined.

Establishment of Poor Committees.

53. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Revenue Department kindly state—

(*a*) whether detailed instructions have been issued to the Presidents of Union Boards through Circle Officers drawing attention to mandatory provisions of the Bengal Rural Poor and Unemployment Relief Act (Act X of 1939); and

(*b*) whether the poor committee has now been formed in every union and lists of poor and unemployed persons have been prepared?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Necessary instructions have been issued in nearly all the districts. In a few districts instructions are under issue.

(*b*) This is being done.

Khan Bahadur SAIYED MUAZZAMUDIN HOSAIN: Sir, my question was: in how many districts these committees have been formed. That has not been answered.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the question was "(*a*) whether detailed instructions have been issued to Presidents of Union Boards through Circle Officers drawing attention to mandatory provisions of the Bengal Poor and Unemployment Relief Act" and my reply to that is "necessary instructions have been issued in nearly all the districts". My answer to (*b*) is "this is being done".

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state in how many districts they have already been formed?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is very difficult to give any definite information as to in how many districts such committees have been formed, having regard to the fact there are over 5,000 union boards. Instructions have been issued to all of them to form committees but it is difficult to say in how many districts committees have actually been formed.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that a decision was taken to form committees about a year ago?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if Government have issued instructions to all the boards to form committees immediately?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Instructions have been issued and the committees are being formed.

Taxes on articles sold in markets.

54. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Revenue Department kindly state if he is aware that tolls or taxes are being collected by zemindars, lessees or agents on jute, condiments, eggs, wooden articles and other articles of merchandise, sold in *hats* and *bazars* of Bengal, particularly in the district of Mymensingh (e.g., in Bhairab Bazar, Hossainpore, Gaffargaon)?

(*b*) Is it a fact that by article VII(2) of the proclamation and section 35 of Regulation VIII of 1793, the previous practice by which zemindars used to levy tax and other internal duties or taxes on merchandise in *hats*, *ganjas* and *bazars* of Bengal was prohibited?

(*c*) If the reply to (*b*) be in the affirmative, do the Government propose to issue a communique drawing attention of all landholders that realisation of toll in merchandise is illegal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) It is reported that no tolls are collected at Bhairab Bazar from retail purchasers of articles for domestic use. Tolls are collected by zemindars from wholesale exporters of condiments, eggs, wooden articles, cereals, vegetables,

betelnuts, flour, *gur*, sugar, pulses, paddy, rice, etc. No tolls or taxes are collected on jute by zemindars, lessees or agents. As regards Hossainpur, it is reported that since 1938 no toll or tax is being collected, but previous to 1938 a toll called *britti* used to be collected. In the Sadar South subdivision of the district, zemindars lease out their *hats* and it is the lessees who realise rents or tolls at different rates for different articles.

(*b*) and (*c*) The legal position in the matter is not free from difficulty and is now under examination by Government.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state as to when the examination will be over?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The matter has been placed in the hands of the law officers of Government.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state as to when their opinion can be expected to be received?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As soon as possible.

Appointment of the teacher of Physics and Chemistry of the Jalpaiguri Medical School.

55. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department kindly state how many applications have been received by him in response to his advertisement in the *Calcutta Gazette*, dated the 25th April, 1940, for a teacher of Physics and Chemistry in Jalpaiguri Medical School?

(*b*) What amount of fee has been realised by Government from the candidates for filing the applications?

(*c*) Is it not a fact that many desirable candidates are debarred from filing applications on account of their inability to meet this fee?

(*d*) From what time has the system of levy of such a fee been introduced?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, Minister in charge of the Public Health and Local Self-Government Department): (*a*) Thirteen applications were received by the Public Service Commis-

sion in response to the advertisement issued by it for a teacher of Physics and Chemistry in the Jalpaiguri Medical School.

(*b*) Rs.65.

(*c*) Government have no reason to think so.

(*d*) November, 1937.

Deputy Superintendent of the Dacca Medical School.

56. Khan Bahadur KAZI ABDUR RASHID: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state if it is a fact that the present Deputy Superintendent of the Dacca Medical School is a non-Matric and that he has been raised from the rank of a Sub-Assistant Surgeon to that of an Assistant Surgeon?

(*b*) Do the Government now contemplate giving him further promotion by placing him in charge of a district? If so, what meritorious services he has done to justify such appointment?

(*c*) Are there not better and more qualified Muslim candidates available in the Province to hold the post of a Civil Surgeon than the present Deputy Superintendent of the Dacca Medical School?

(*d*) Is it a fact that a public inquiry was held against his conduct and character? If so, why has not that report seen the light of day up till now so as to enable him to vindicate his position? Do the Government propose to remove all misunderstandings, misgivings and suspicions against the gentleman who is shortly going to be promoted to the rank of a Civil Surgeon by giving publicity to the report of the aforesaid inquiry?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): Information on all the points is not yet available. A reply to the whole question will be furnished as soon as all the information is available.

Midnapore District Board.

57. Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) whether the present District Board, Midnapore, is running continuously for over 7 years and has recently passed a resolution for a further extension of its life; if so, whether that resolution has the sanction of Government; how long will the present Board continue;

(*b*) what was the total revenue collected by the Midnapore District Board in the years 1935-36, 1936-37, 1937-38, 1938-39 and 1939-40; what were the arrears of collection in those years;

(*c*) the amount of money spent for maintenance of roads in the different subdivisions during the years mentioned above; whether any amount was spent in any of the subdivisions on new projects for improving communications;

(*d*) the amount spent on medical relief in the different subdivisions during the period;

(*e*) the amount spent on education in the different subdivisions during the period; and

(*f*) the number of tube wells sunk in the different subdivisions during this period?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): Steps have been taken for collection of the information which is not yet available.

Rai Bahadur MANMATHA NATH BOSE: May I enquire as to when it will be available?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I hope it will be available very soon, but I cannot give any definite time.

All-weather roads in Faridpur district.

58. Mr. MOAZZEMALI CHOWDHURY (on behalf of Mr. Humayun Kabir): Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*a*) the total mileage of all-weather roads in the different subdivisions in the district of Faridpur;

(*b*) how much of it is included within municipal areas;

(c) how much of the all-weather roads, outside of municipalities, are metalled; and

(*d*) the total mileage of fair-weather roads in the different subdivisions of the district?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): There are no provincial roads in the district of Faridpur and I am unable to give the honourable member the information which he

desires about roads controlled by local bodies. I should like however to invite his attention to Appendices I and II to Chapter IV of the first volume of Mr. King's Report and to Appendix V to Chapter XXII of the fourth volume.

Arrangement of conveyance from the Singa station on the Eastern Bengal Railway.

59. Mr. K. C. ROY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if it is a fact that at the Singa station on the Khulna section of Eastern Bengal Railway, hackney carriages and motor buses are not allowed to approach the station but have to keep away from the railway area at a distance of about a quarter of a mile, much to the disadvantage of passengers, especially women passengers and children who are compelled thereby to go to the hackneys all the way through a jungle in constant fear of being robbed of their belonging by *goondas* and thieves, particularly at night?

(*b*) If the answer to clause (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state what is the reason for this arrangement in the Singa station?

(*c*) Will the Hon'ble Minister be pleased to see that arrangements are made for allowing the hackneys and buses to stand close to the railway station as is the practice at other railway stations on the line and thus save the passengers much of their inconveniences and fear of the loss of life and properties?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Motor buses, I am told, cause inconvenience to passengers and interfere with traffic. They have therefore to remain at a distance of about 300 yards from the station on the main road, but there is no restriction on hackney carriages. I am informed that the pathway from the entrance to the railway enclosure to the station does not pass through any jungle and that there is no reason why pedestrians should apprehend attack by robbers.

Rent cases pending before the Debt Settlement Boards of Chittagong.

60. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state if it is a fact that a large number of rent cases are pending in various Debt Settlement Boards of Chittagong and that due to the delay in the disposal of the same, the landowners of Chittagong

are in great difficulty in realisation of arrears of rent from their tenants? If so, what measures have Government taken for the speedy and timely disposal of rent suits by the Debt Settlement Boards?

(*b*) What is the total number of rent suits which are still pending in different Debt Settlement Boards of Chittagong?

(*c*) Is it a fact that a large number of non-agriculturists are resorting to Debt Settlement Boards of Chittagong to avoid timely payment of their dues to shopkeepers and other persons, and that the traders of Chittagong have been affected thereby?

(*d*) If so, what steps have been taken by Government to see that the provisions of law as regards the class of debtors who can legally resort to these Debt Settlement Boards may be strictly followed and that all applicants from non-agriculturists are summarily dismissed or disposed of speedily? If not, why not?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) and (*b*) The exact number of rent cases cannot be ascertained without an unduly large expenditure of time and labour which is not commensurate with the advantages to be obtained.

The landowners are not in difficulty, as under instructions from Government, Debt Settlement Boards are dealing with the arrear rents separately and are giving separate awards for them. The local officers are ensuring observance of these instructions.

(*c*) No.

(*d*) Does not arise.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Will the Hon'ble Minister be pleased to state whether tenants have been directed to make payment of rent for the current year and whether therefore they are reluctant to make payment of arrears of rent?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, the instruction is that tenants have to pay their current year's rent at the present moment, and that their arrears of rent will be settled by the Debt Settlement Boards.

Manufacture of salt.

61. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state what measures have been adopted by Government of Bengal to encourage manufacture of salt by the people living on the seashore of the district of Chittagong?

(*b*) Have Government of Bengal granted any licence for the manufacture of salt from saline water to the people of Chittagong? If so, what is the total number of such licence? If not, do the Government propose to issue such licences as has been done by Governments of some other provinces of India such as Madras and Orissa?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) The Chittagong Trading Union, Limited, is the only salt manufacturing concern in the district. On the recommendation of this Government, the Government of India sanctioned a subsidy for a period of three years to the firm subject to the condition that the minimum outturn during the first year should be 10,000 maunds. The firm was unable to comply with the condition and prayed for more favourable terms which were granted. The firm could not however satisfy even the modified terms with the result that the subsidy could not be paid. It appears that it is essential first to evolve the correct and most economical method of the manufacture of salt before attempting to manufacture salt on a large scale and with this end in view, I have under consideration a scheme for bringing an expert in order to help the salt-manufacturers of the Province with technical advice as to the correct method and assist them in removing the defects in their planning and the selection of sites and also to evolve the most economic process of manufacture of salt suitable for the Province.

(*b*) The question of granting licences for the manufacture of salt concerns the Government of India. This Government used to administer the subject as an agent of the Government of India who have since taken it over under their direct administration. This Government is only concerned with the question of development of salt manufacture as an industry.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state when the scheme for bringing an expert in order to help the manufacture of salt in this province is likely to materialise?

The Hon'ble Mr. TAMIZUDDIN KHAN: I am trying my best to expedite the matter but I cannot give any definite time.

Messages from the Assembly.

SECRETARY to the COUNCIL (Dr. S. K. D. Gupta): Sir, I have received the following messages from the Bengal Legislative Assembly:—

(1) "The Bengal Alluvion and Diluvion (Amendment) Bill, 1940, as passed by the Bengal Legislative Assembly at its meeting held on the

7th August, 1940, has been duly signed by me and is annexed herewith. The concurrence of the Bengal Legislative Council to the Bill is requested."

Sir, I lay the Bill on the table.

(2) "The Bengal Co-operative Societies Bill, 1940, as passed by the Bengal Legislative Assembly at its meeting held on 1st August, 1940, has been duly signed by me and is annexed herewith. The concurrence of the Bengal Legislative Council to the Bill is requested."

Sir, I lay the Bill on the table.

Election of Members of Privilege Committee.

Mr. PRESIDENT: Order, order. The House will now proceed to elect seven members for the Committee of Privileges, as required by Rule 120 (*1*) of the Bengal Legislative Council Procedure Rules. In this connection, I am to inform the House that altogether ten nomination papers were received. The names of the candidates are as follows:—

(1) Maulvi Nur Ahmed.

(2) Khan Bahadur M. Shamsuzzoha.

(3) Khan Bahadur Naziruddin Ahmad.

(4) Khan Bahadur Rezzaqul Haider Chowdhury.

(5) Raja Bahadur Bhupendra Narayan Sinha.

(6) Mr. Shrish Chandra Chakraverti.

(7) Mr. Allan Forrest Stark.

(8) Mr. Amulya Dhone Roy.

(9) Mr. Dhirendra Lal Barua.

(10) Maulvi Abul Quasem.

I am also to inform the House that all the nomination papers are in order. Mr. Nur Ahmed, one of the nominees, has since intimated in writing withdrawing his candidature from the election. There are, therefore, nine candidates for seven seats and an election will become necessary. I propose now to explain to the hon'ble members the procedure which I desire to follow in conducting the election. I shall call out the names of the hon'ble members one by one and the hon'ble members will then proceed to the table of the Assistant Secretary who will hand in a ballot paper to each of them. The hon'ble member will thereafter proceed behind the Chair where a table has been placed and also blue pencils provided for for the purpose of marking the voting papers in the manner prescribed in the ballot paper itself. After marking the ballot paper on the table, the hon'ble member will fold the ballot

paper and proceed towards the Registrar's table where a ballot box has been placed. Hon'ble members will please see that they have dropped the folded ballot papers into the box.

(The election then proceeded in the manner prescribed above.)

While the voting was proceeding, the Hon'ble Sir Bijoy Prasad Singh Roy suggested that the business might be expedited if the hon'ble members marked the names on the ballot papers at three or four different places simultaneously instead of doing so at one particular place.

Mr. NARESH NATH MOOKERJEE: Sir, I oppose the proposal made by the Hon'ble Minister on the ground that you have already declared that each member must mark his ballot paper behind the Chair.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If that satisfies my friend, I withdraw my suggestion.

Mr. PRESIDENT: I shall consider your suggestion on a future occasion.

(Mr. President then called, one by one, the members present to exercise their vote for the election of the members of the Privilege Committee.)

I shall now read out the names of the members who were absent and did not exercise their votes. If any one of them happens to be present now, he can exercise his vote. The names are as follows:—

Mr. Kader Baksh,

Rai Keshab Chandra Banerjee Bahadur,

Khan Sahib Abdul Hamid Chowdhury,

Mr. Narendra Chandra Datta,

Mr. Kamini Kumar Dutta,

Khan Bahadur Alhadj Khwaja Muhammad Esmail,

Mr. Mohamed Hossain,

Alhadj Khan Bahadur Shaikh Muhammad Jan,

Mr. Humayun Kabir,

Maulana Muhammad Akram Khan,

Dr. Radha Kumud Mookerji,

Rai Bahadur Radhika Bhusan Roy,

Khan Bahadur M. Shamsuzzoha.

(None of the above-mentioned members was present in the chamber.)

The result of the voting will be declared later on.

Mr. LALIT CHANDRA DAS: Sir, will you keep the ballot box open till 4-15 p.m.

Mr. PRESIDENT: No, it will be closed just now. But the counting will be made and the results announced tomorrow.

The House will now take up the consideration of the Bengal Shops and Establishments Bill, 1940.

The Bengal Shops and Establishments Bill, 1939.

Clause 1.

Mr. PRESIDENT: Clause 1 stand part of the Bill.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: I beg to move that in sub-clause (2) of clause 1 of the Bill, for the word "whole", the words "municipal areas" be substituted.

The object of the Bill is no doubt a laudable one but, Sir, I think that conditions of the rural areas of the province being what they are the provisions of the Bill should not be applied outside our municipal towns. It is true, Sir, that the Bill is proposed to be applied in the first instance to Calcutta and other important municipal towns. But once it has been in force in these towns for some time, it is likely that its extension to rural areas may be demanded. But, knowing the conditions of these areas as I do, I do not want, Sir, that it should be so extended. In the villages, the shops are run, as a rule, on a very small scale. Generally, the owners themselves with the assistance of one or two near relatives manage these shops. Secondly, Sir, everybody who has any acquaintance with our countryside will admit that these shops remain open only during some particular hours of the day and do not require such regulation on this account, as the Bill provides.

In view of the facts which I have delineated I do not see, Sir, why this Bill should be extended to the whole of Bengal. Outside the municipal areas it has, in fact, no utility. In case it is extended, it will only create an atmosphere for official interference without doing good to any class of people.

Mr. PRESIDENT: Amendment moved: that in sub-clause (2) of clause 1 of the Bill, for the word "whole", the words "municipal areas" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to oppose the amendment. It is true that it is not intended to apply this Bill

ordinarily to any place outside a municipality. But, nevertheless, there is no reason why the powers of Government in this connection should be restricted. We may visualise persons going just outside the borders of the municipality and establishing shops there for the purpose of evading the Act. If they did that, it may have a very serious effect on the shopkeepers within the municipal areas. It is proposed, therefore, to retain power to bring such shops within the purview of this Act if it is found that action of this kind has been taken to evade the Act. Otherwise, we shall not be able to deal with such shops. I hope the honourable member feels that there is no need to press this motion and he may be inclined to withdraw it.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Birendra Kishore Roy Chowdhury: that in sub-clause (2) of clause 1 of the Bill, for the word "whole", the words "municipal areas" be substituted.

(The amendment was negatived.)

Mr. NUR AHMED: Sir, I beg to move that in sub-clause (4) of clause 1 of the Bill, for the words "Municipality of Howrah" in lines 6 and 7, the words "the municipalities of Howrah and Chittagong" be substituted.

Sir, this is going to be a new legislation in Bengal. The Government is embarking on a new experiment in this direction. As the Bill now stands, it will apply in the first instance to the City of Calcutta and to the Municipality of Howrah. In the original Bill, it was proposed to extend its operation to the municipalities in the 24-Parganas, but in the Select Committee the latter part has been omitted. Sir, if an experiment is to be made, it is necessary that this should be done in a mofussil municipal area as well. Conditions prevailing in Howrah are similar to those prevailing in Calcutta, and they are for practical purposes one and the same municipality. I suggest, therefore, that experiments should be made in two distinct areas.

It is provided in the Bill that Government may by notification extend the provisions of this Bill to any other area. With due deference to Government, I must submit that every beneficial Act contains similar provisions although in actual practice such provisions are seldom given effect to. Such beneficial measures as the Bengal Children's Act, the Bengal Cruelty to Animals Act, the Bengal Suppression of Immoral Traffic Act have been put into operation only so far as the City of Calcutta is concerned, but the rest of Bengal has been deprived of all benefits arising therefrom. I had at one time tried to put the Bengal Children's Act into operation in Chittagong but failed, and when as a last resort I tabled a motion for consideration of a Bill to that effect in this House, it was vetoed.

With all respect, I must submit that in actual practice we find that red-tapism is still encouraged by the present Government. When the question of extension comes, the question of finance and other intricate questions are raised, and it is never extended. So, I appeal to the Hon'ble Minister to make an experiment in a mofussil town like Chittagong which is eminently fit for it, as it is the second major port in Bengal. The number of shops within its municipal areas exceeds 1,300.

With these few words, Sir, I appeal to the Hon'ble Minister to accept my motion.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*4*) of clause 1 of the Bill, after the word "Howrah" in line 7, the words "and the municipalities of Howrah and Chittagong" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I appreciate the motive of the honourable member who, in his great solicitude for the down-trodden people of this province, has sponsored several very good Bills for their relief. The fact is that the arm of law is not so long as it is believed to be, and we would like to have a little bit of experience near about in Calcutta and in Howrah where we shall be able to see how this Act works, how we can supervise it, how it is evaded or how it can be evaded, so that after having gained necessary experience we may be able to apply it to the mofussil towns as well. I would like to assure the honourable member that I will certainly keep the claims of Chittagong in mind, and as soon as we have gained sufficient experience we shall apply it to Chittagong. I hope the honourable member will accept my assurance and withdraw the amendment.

Mr. NUR AHMED: In view of the assurance given by the Hon'ble Minister, Sir, I beg leave of the House to withdraw the amendment.

(The amendment of Mr. Nur Ahmed was then, by leave of the House, withdrawn.)

Mr. PRESIDENT: The question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Clause 2.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that in clause 2, after the words "subject or context", the following sub-clause be inserted, namely:—

"(*A*) 'closed' means not open for the service of any customer".

Mr. PRESIDENT: Amendment moved: that in clause 2, after the words "subject or context", the following sub-clause be inserted, namely:—

"(*A*) 'closed' means not open for the service of any customer".

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I oppose the amendment which the Hon'ble Sir Bijoy Prasad Singh Roy has moved for inserting sub-clause (*A*) in clause 2 of the Bill. Sir, if this amendment is adopted and if the word "closed" is made to mean "not open for the service of any customer", the benefit which it is the object of the Bill to offer to the employees will be completely neutralised. A commercial establishment or a shop may not be open to a customer during certain hours, but the employees may be made to work all the same at other and not less arduous duties. Everybody knows that a bank is closed to a customer after 3 o'clock in the afternoon but that does not mean that the employees are out of work after that hour. On the contrary, they have to put in 3 or even 4 hours of work after that every day. The object of the Bill will be completely frustrated if the word "closed" is defined in the way that the Hon'ble Minister is trying to do. I hope, Sir, that the Hon'ble Minister will withdraw the amendment.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to support this amendment. The reason for this amendment is this: there are many shops where poor shopkeepers and assistants live in the shop in the night. If you do not insert this definition, it would be impossible for them to sleep in the shop at night. All you want is that sales should be stopped at a certain hour. You need not close the shop for all purposes. If poor owners and assistants cannot open the doors for egress and ingress at night for purposes other than sale, a severe hardship may result. In order to provide for this facility this definition has been introduced—and not to provide a loophole, as has been supposed. In fact the Bill is an experiment and we should proceed rather cautiously and must not produce needless hardship through hurry. In case the Bill is evaded through this amendment, something can be done later on. With these few words I beg to support the amendment.

Mr. NARESH NATH MOOKERJEE: Sir, I am sorry I do not see any force in the Khan Bahadur's speech in support of this amendment. Sir, I take it that the object of this Bill is to regulate the hours of work in shops and commercial establishments, and not merely to declare when shops should be closed. I think if this amendment is carried, it will hit at the root of the principles that have actuated Government to bring up this measure. I consider, Sir, that when a

shop is closed, it should be closed to all employees of the shop, and also employees of commercial establishments for all purposes and not merely to customers. I can only look at this amendment with a great deal of suspicion: because if this amendment is carried, I am afraid the clauses that have been inserted to regulate the hours of work in this Bill will be absolutely nullified. I really do not know what is the reason for Government's sponsoring this amendment. As the Hon'ble Sir Bijoy Prasad has not given us any explanation as to why he wants this insertion, I am unable to know the reason for it. I wish to request Government, Sir, not to bring up an amendment of this kind at this stage because it makes us very suspicious. We are out to co-operate with Government in this Bill, provided such radical changes are not made so as to completely alter the character of this Bill. I again request Sir Bijoy to withdraw this amendment.

Khan Bahadur SYED MUAZZAMUDDIN HOSAIN: Sir, my honourable friend, it seems, has not really followed the object of this amendment. Sir, in section 5 the word "closed" appears in the passage "every shop shall be entirely closed on at least one and a half days in each week, and so on." It has reference to the closing of shops but it is not at all clear as to whether it will mean that the doors of a shop will be closed or that there should be no sale or purchase in any shop. I think to clarify the meaning of the word "closing", this amendment has been brought forward.

Sir, my honourable friend has said that this amendment will really frustrate the very object of the Bill. It is not at all correct. For, there are other sections to deal specifically with hours of work and other things. Sections 6 and 7 specially lay down certain hours of work including work inside the shop even after it is closed. The expression "closed" is only an explanation with reference to sections 5 and 6, and does not affect the working hours of shopkeepers. If the assistant in a shop works after the closing of the shop that will be taken into account, and if the working hours exceed ten hours, the keeper of the shop will be liable to punishment.

With these words, Sir, I support the amendment.

Mr. NARESH NATH MOOKERJEE: Sir, on a point of information. How will the Inspectors, who will be in charge, if they want to inspect the shops, be able to get access into the shops?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, the debate here has shown that there is great need for clarifying the meaning of the word "closed". The definition has been taken bodily from the Bombay Act, as we found that there is likely to be some confusion as to when a shop, which has closed its shutters, is really a closed shop or otherwise. If we

do not have this definition, the result would be just the reverse of what my honourable friends on the other side apprehend, viz., it may be stated that "closed shop" means a shop where the doors are closed, but where work may be carried on inside. Hon'ble members have overlooked a certain section in this Act which states that no shop assistant can work more than 56 hours a week, and within these 56 hours come all the various works which he may be called upon to do within the shop. No customer may equally be served for more than half an hour after the shop had closed its doors; that is to say, a customer must have come into the shop when the doors were open; but after the shop has closed its doors, he can be served for only half an hour. After that the work will be finished.

It is in order to clarify the situation and to prevent further disputes in future that we have thought it necessary to explain the meaning of the word "closed".

Mr. PRESIDENT: The question before the House is the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy, namely, that in clause 2, after the words "subject or context", the following sub-clause be inserted, namely:—

"(*A*) 'closed' means not open for the service of any customer;".

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that after sub-clause (*4*) of clause 2, the following sub-clause be inserted, namely:—

"(*4*) (*aa*) 'factory' means a factory as defined in, or declared to be a factory under, the Factories Act, 1934".

In fact, Sir, this is the Government amendment in a re-drafted form; it is exactly the same with the typographical error eliminated.

Mr. PRESIDENT: Amendment moved: that after sub-clause (*4*) of clause 2, the following sub-clause be inserted, namely:—

"(*4*) (*aa*) 'factory' means a factory as defined in, or declared to be a factory under, the Factories Act, 1934".

Mr. NARESH NATH MOOKERJEE: On a point of information, Sir. Does this mean that only such factories as are driven by machine-power will come under the purview of this Bill, and those factories where no machine-power is used will be excluded? I would like to have the Hon'ble Minister's views on this matter.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, in the first place, I do not quite understand which amendment my friend Khan Bahadur

Naziruddin Ahmad has moved, because No. 1 of late list 2 states; "a factory means a factory as defined or as declared to be a factory," but the honourable member has moved that "factory means a factory as defined in, or declared to be a factory under, the Factories Act, 1934." He has only added the word "in". So long as the word "in" is there, it is the one and the same thing, and I have no objection to accepting the amendment. A factory as defined in the Act includes an establishment in which there is motor-power.

Mr. NARESH NATH MOOKERJEE: But what about the small factories like the sugarcane factories, the biscuit factories and such other small concerns which are dotted all over the city? They work till late hours at night with sweated labour.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, if they are factories, they are factories; and if they are not factories, they are not. There is no provision as yet for looking after their interests except where Government declares them to be factories.

Mr. PRESIDENT: The question before the House is: that after sub-clause (*4*) of clause 2, the following sub-clause be inserted, namely:—

"(*4*) (*aa*) 'factory' means a factory as defined in, or declared to be a factory under, the Factories Act, 1934".

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in sub-clause (*6*) of clause 2, for the words "or any member of the family of a shopkeeper or employer", the following words be substituted, namely:—

"or the husband, wife, child, father, mother, brother or sister of a shopkeeper or employer who lives with, and is dependent on, such shopkeeper or employer".

Mr. PRESIDENT: Amendment moved: that in sub-clause (*6*) of clause 2, for the words "or any member of the family of a shopkeeper or employer", the following words be substituted, namely:—

"or the husband, wife, child, father, mother, brother or sister of a shopkeeper or employer who lives with, and is dependent on, such shopkeeper or employer".

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I rise to support the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy. I gave notice of an amendment for deletion of the words "or any member

of the family of a shopkeeper or employer" in lines 18 and 19 of sub-clause (*6*) of clause 2. The object of my amendment was obvious. It was to stop the exploitation of distant relatives under cover of this sub-clause. As my object has been achieved by the amendment of the Hon'ble Minister, I have much pleasure in supporting it. So, Sir, I refrain from moving my own amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am grateful to the European Group for having pointed out this hiatus: without the definition of the term "family", the Bill would have been difficult to work.

Mr. PRESIDENT: The question before the House is the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy: that in sub-clause (*6*) of clause 2, for the words "or any member of the family of a shopkeeper or employer", the following words be substituted, namely:—

> "or the husband, wife, child, father, mother, brother or sister of a shopkeeper or employer who lives with, and is dependent on, such shopkeeper or employer".

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 2, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 2A.

Mr. PRESIDENT: Clause 2A stand part of the Bill.

The question before the House is: that clause 2A stand part of the Bill.

(The motion was agreed to.)

Clause 3.

Mr. PRESIDENT: Clause 3 stand part of the Bill.

The question before the House is: that clause 3 stand part of the Bill.

(The motion was agreed to.)

Clause 4.

Mr. PRESIDENT: Clause 4 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that for paragraph (*b*) of sub-clause (*1*) of clause 4, the following be substituted, namely:—

"(*b*) any railway service, water transport service, tramway or motor service, postal, telegraph or telephone service, any system of public conservancy or sanitation, any industry, business or undertaking which supplies power, light or water to the public and such other public utility companies or associations or classes thereof as the Provincial Government may, by notification, exempt from the operation of this Act".

Mr. PRESIDENT: Amendment moved: that for paragraph (*b*) of sub-clause (*1*) of clause 4, the following be substituted, namely:—

"(*b*) any railway service, water transport service, tramway or motor service, postal, telegraph or telephone service, any system of public conservancy or sanitation, any industry, business or undertaking which supplies power, light or water to the public and such other public utility companies or associations or classes thereof as the Provincial Government may, by notification, exempt from the operation of this Act".

The question before the House is: that for paragraph (*b*) of sub-clause (*1*) of clause 4, the following be substituted, namely:—

"(*b*) any railway service, water transport service, tramway or motor service, postal, telegraph or telephone service, any system of public conservancy or sanitation, any industry, business or undertaking which supplies power, light or water to the public and such other public utility companies or associations or classes thereof as the Provincial Government may, by notification, exempt from the operation of this Act".

(The amendment was agreed to.)

Mr. NUR AHMED: Sir, I gave notice of an amendment. But this amendment will serve the purpose of my amendment: so I do not move my amendment.

Mr. PRESIDENT: It is not necessary to give any explanation. The honourable member is only to say that he does not move the amendment.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, our decision not to move some of the amendments is being laughed at by some members of the Congress Group. That is the reason why my friend has given this explanation.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move: that in paragraph (*f*) of sub-clause (*1*) of clause 4, the word "similar" in line 3 be omitted, and after the word "Act", the words "so far as the sale of these articles is concerned" be inserted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, with regard to this amendment, the latter portion of it is similar, word for word and letter for letter, to that of my amendment No. 49.

Mr. PRESIDENT: Amendment moved: that in paragraph (*f*) of sub-clause (*1*) of clause 4, the word "similar" in line 3 be omitted, and after the word "Act", the words "so far as the sale of these articles is concerned" be inserted.

The question before the House is the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy: that in paragraph (*f*) of sub-clause (*1*) of clause 4, the word "similar" in line 3 be omitted, and after the word "Act", the words "so far as the sale of these articles is concerned" be inserted.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in paragraph (*h*) of sub-clause (*1*) of clause 4, for the words "cremations and other death ceremonies", the words "or cremations" be substituted.

Mr. PRESIDENT: Amendment moved: that in paragraph (*h*) of sub-clause (*1*) of clause 4, for the words "cremations and other death ceremonies", the words "or cremations" be substituted.

The question before the House is the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy: that in paragraph (*h*) of sub-clause (*1*) of clause 4, for the words "cremations and other death ceremonies", the words "or cremations" be substituted.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that for paragraph (*ma*) of sub-clause (*1*) of clause 4, the following be substituted, namely:—

"(*ma*) shops dealing in petroleum products or spare parts for motor vehicles".

Mr. PRESIDENT: Amendment moved: that for paragraph (*ma*) of sub-clause (*1*) of clause 4, the following be substituted, namely:—

"(*ma*) shops dealing in petroleum products or spare parts for motor vehicles".

The question before the House is: the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy that for paragraph (*ma*) of sub-clause (*1*) of clause 4, the following be substituted, namely:—

"(*ma*) shops dealing in petroleum products or spare parts for motor vehicles".

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that after paragraph (*n*) of sub-clause (*1*) of caluse 4, the following paragraph be inserted, namely:—

"(*na*) Such seasonal commercial establishments engaged in the purchase of raw jute or cotton or in cotton ginning or cotton or jute pressing, and the clerical departments of such seasonal factories as the Provincial Government may, by notification, exempt from the operation of this Act".

Mr. PRESIDENT: Amendment moved: that after paragraph (*n*) of sub-clause (*1*) of clause 4, the following paragraph be inserted, namely:—

"(*na*) Such seasonal commercial establishments engaged in the purchase of raw jute or cotton or in cotton ginning or cotton or jute pressing, and the clerical departments of such seasonal factories as the Provincial Government may, by notification, exempt from the operation of this Act".

The question before the House is the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy: that after paragraph (*n*) of sub-clause (*1*) of clause 4, the following paragraph be inserted, namely:—

"(*na*) Such seasonal commercial establishments engaged in the purchase of raw jute or cotton or in cotton ginning or cotton or jute pressing, and the clerical departments of such seasonal factories as the Provincial Government may, by notification, exempt from the operation of this Act".

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 4, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 5.

Mr. PRESIDENT: Clause 5 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that in sub-clause (*1*) of clause 5, the words "for not less than six consecutive days" be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 5, the words "for not less than six consecutive days" be omitted.

The question before the House is: that in sub-clause (*1*) of clause 5, the words "for not less than six consecutive days" be omitted.

(The amendment was agreed to.)

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I beg to move that after the proviso to sub-clause (*1*) of clause 5 of the Bill, the following second proviso be added, namely:—

> "Provided further that every person employed in the shop shall be allowed as holidays at least one and a half days in each week".

Sir, I have moved for incorporation of this proviso only to ensure one and a half days as holidays in each week to the employees, irrespective of the kind of shops in which they may happen to work. A shop in which some mixed business is done, may not be closed on any of the days of the week. But, Sir, the employees by turns must be given the fixed holidays in each week.

Mr. PRESIDENT: Amendment moved: that after the proviso to sub-clause (*1*) of clause 5 of the Bill, the following second proviso be added, namely:—

> "Provided further that every person employed in the shop shall be allowed as holidays at least one and a half days in each week".

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, this is unnecessary, as after the expression "consecutive days" is removed, it comes to exactly the same thing as the honourable member proposes to ensure.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I consider this amendment unnecessary, and so I oppose it.

Mr. PRESIDENT: The question before the House is: that after the proviso to sub-clause (*1*) of clause 5 of the Bill, the following second proviso be added, namely:—

"Provided further that every person employed in the shop shall be allowed as holidays at least one and a half days in each week".

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 5, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 6.

Mr. PRESIDENT: Clause 6 stand part of the Bill.

The question before the House is: that clause 6 stand part of the Bill.

(The motion was agreed to.)

Clause 7.

Mr. PRESIDENT: Clause 7 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that in sub-clause (*1*) of clause 7, the words "for not less than six consecutive days" be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 7, the words "for not less than six consecutive days" be omitted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 7, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 8.

Mr. PRESIDENT: Clause 8 stand part of the Bill.

Mr. W. B. G. LAIDLAW: On a point of order, Sir. May I point out that there is an amendment at the bottom of page 2 of the late list 1? This is not being placed before the House.

Mr. PRESIDENT: The Hon'ble Minister can oppose it at the time of voting, because I will place the whole clause before the House for voting.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I beg to move that in sub-clause (*1*) of clause 8 of the Bill, for the words "two hundred and eight hours in any one month" in lines 3 and 4, the words "seven hours in any one day" be substituted.

Sir, if the employees are required to work in a commercial establishment for 208 hours in any one month, it will virtually amount to work for more than eight hours and a half each day, after excluding Sundays and the half Saturdays. In other words, an employee may be compelled to work from ten in the morning to nearly seven in the evening. To me, Sir, this arrangement appears to be atrocious. It is true that in many of the commercial establishments the employees have actually to work for such a long period at the present time. But everybody ought to feel that this amounts only to undue exploitation of the helpless condition of the employees. It is time that such exploitation ceases in this province. Seven hours a day is certainly a reasonable period for which an employee may be required to work.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 8 of the Bill, for the words "two hundred and eight hours in any one month" in lines 3 and 4, the words "seven hours in any one day" be substituted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to oppose this amendment, because there is an amendment by Sir Bijoy for deletion of the entire clause 8. I think that it ought to be placed first before the House.

Mr. PRESIDENT: That will come last.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Then, we oppose the amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am merely attempting to anticipate the arguments that we may have to advance for omitting clause 8 altogether, because in case we merely give a negative vote, the reasons why we are omitting a valuable clause of the Bill may not be understood. We have adopted the amendment that was proposed by the European Group, and the reason why Government have tabled an amendment of their own on similar lines is to show that we take the responsibility for such an important amendment to the Bill. The amendment proposed by Mr. Birendra Kishore Roy Chowdhury has certainly my sympathies. But the reason why we wish to withdraw clause 8 altogether from the Bill and, therefore, not impose any limits of hours of work in commercial establishments for the time being is that

we have not got sufficient information at our disposal which will enable us to implement the clauses of this Bill. We feel that we will not be able to administer the Bill in a satisfactory manner, because the information at our disposal is not sufficient. There are commercial establishments of various kinds. There may be commercial establishments conducted by, say, European Managing Agents. They as a rule will not be affected by this Bill, because so far as we know their clerks and employees working in those establishments work well under 208 hours per month. Consequently, if the clause were there, the European Group or the firms which are managed by them will not be adversely affected. But there are commercial establishments of various other kinds. There are the banks, there are the establishments which are managed by our own merchants in Burra Bazar and in similar places with regard to whose hours of work we have not got sufficient information. They come at odd hours and they work until odd hours in the night, and we propose to conduct an enquiry into the hours of work of various kinds of commercial establishments and then come up with some proposals before this House which will enable us to control these commercial establishments satisfactorily. For instance, we do not know how they may divide these 208 hours of work. One commercial establishment may say, "our men come in at 8 o'clock in the morning and work till 10. From 10 to 1, we will give them leave, and then allocate the period from 1 to 3 as their hours of work. Then, he will get leave from 3 to 6, and we will again make him work from 6 to 11 or 1 at night". Such things we want to avoid, but at the same time we should not do anything which will interfere with the progress of business and commerce on which the greatness of the city depends. For this reason, I think, it will be an inadvisable piece of legislation if, without further materials at our disposal and without being more definite as to how to control the hours of work and also owing to the difficulties in administering the Bill as it will stand, we have decided to withdraw clause 8 altogether.

Mr. NARESH NATH MOOKERJEE: May I take it that Government intend to bring in a separate Bill to control the hours of work in the commercial establishments? If so, may we know from the Hon'ble Minister when he proposes to bring in such a Bill before this House?

The Hon'ble Mr. H. S. SUHRAWARDY: Well, Sir, it is my purpose to bring in another Bill after necessary enquiries have been completed. Of course, the nature of that Bill will depend on the nature of the enquiries. So far as I am aware, commercial establishments do require control, but I want to be quite certain of my facts before I bring in this Bill. I do hope I will be able to bring in such a Bill some time in March next.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Birendra Kishore Roy Chowdhury: that in sub-clause, (*1*) of clause 8 of the Bill, for the words "two hundred and eight hours in any one month" in lines 3 and 4, the words "seven hours in any one day" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 8 stand part of the Bill.

(The motion was negatived.)

Order, order. The House stands adjourned till 2-15 p.m. on Tuesday.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 13th August, 1940.

Members absent.

The following members were absent from the meeting held on the 12th August, 1940:—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Khan Sahib Abdul Hamid Chowdhury.
(4) Mr. Narendra Chandra Datta.
(5) Mr. Kamini Kumar Dutta.
(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(7) Mr. Mohamed Hossain.
(8) Alhadj Khan Bahadur Shaikh Muhammad Jan.
(9) Mr. Humayun Kabir.
(10) Maulana Muhammad Akram Khan.
(11) Dr. Radha Kumud Mookerji.
(12) Rai Bahadur Radhika Bhusan Roy.
(13) Khan Bahadur M. Shamsuzzoha.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 13th August, 1940, at 2-15 p.m. being the tenth day of the Second Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Banning of meetings, etc., under the Ordinance passed by Government.

62. Mr. RANAJIT PAL CHAUDHURI (on behalf of Mr. K. C. Roy Chowdhury): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if it is a fact that after the declaration of war Government passed an Ordinance declaring that the holding of meetings, processions or demonstrations without the previous permission of the Commissioner of Police in Calcutta and of the District Magistrate in *mufassil* areas in violation of the above Ordinance, would be liable to prosecution, jail or confinement?

(*b*) Is it a fact that members of the trade unions which are affiliated to the All-India Trade Union Congress, holding meetings, processions or demonstrations without the permission of the Commissioner of Police in Calcutta or of the District Magistrate in *mufassil* areas are either prosecuted or their meetings, processions or demonstrations are dispersed with *lathi* charges by the Police?

(*c*) Is it a fact that members of many trade unions affiliated to the National Chamber of Labour (Moslem League) have been holding meetings, processions or demonstrations without taking any permission of the Commissioner of Police or of the District Magistrate in *mufassil* areas?

(*d*) Is it a fact that the Bose Party and the suspended Bengal Provincial Congress Committee and the *Forward Bloc* hold meetings and processions and demonstrations for the boycott of newspapers and other things always and everywhere in Bengal and Calcutta and also in *mufassil* areas without taking any permission of the Commissioner of Police in Calcutta or of the District Magistrate in *mufassal* areas?

(*e*) If the replies to clauses (*a*) to (*d*) be in the affirmative, what steps have been taken by Government as regards clauses (*c*) and (*d*)?

(*f*) Will the Hon'ble Minister be pleased to state—

(*i*) how many organisations applied to the Government for permission for holding meetings, processions or demonstrations; how many got such permissions; what are their names and number from September, 1939, to June, 1940; and

(*ii*) how many of the organisations were refused permission with dates and number of the applications for permission rejected and also the names of such organisations?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Khwaja Sir Nazimuddin, Minister in charge of the Home Department): Statistical information is not available in the form desired by the honourable member and to compile it specially would entail an expenditure of time, labour and money which Government regret they cannot see their way to undertake.

Mr. NARESH NATH MOOKERJEE: Does not the Hon'ble Minister consider that this is an instance where the expenditure of time, labour and money are justified? The honourable member who has put in the question has suggested that there is differential treatment meted out to members of the Trade Union Congress and members of the Trade Unions which are organised under the auspices of the Muslim League. This is a very serious charge, and I do hope that Government will investigate into this matter and inform the House as to what their findings are.

Mr. PRESIDENT: Will the Hon'ble Minister please see that so far as paragraphs (*a*), (*b*) and (*c*) are concerned, there is no question of statistics. But the answer is that statistical information is not available in the form desired. In the case of paragraph (*f*) only, the question of statistics comes.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the question is this—is it a fact that the workers of the trade unions which are affiliated to the All-India Trade Union Congress, holding meetings——

Mr. PRESIDENT: But will you please read out paragraph (*a*)?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Will the Hon'ble Minister in charge of the Home Department be pleased to state if it is a fact that after the declaration of war, Government passed an Ordinance declaring that the holding of meetings, processions or demonstrations without the previous permission of the Commissioner of Police in Calcutta or of the District Magistrate in *mufassil* areas in violation of the above Ordinance, will be liable to prosecution, jail or confinement?

Mr. PRESIDENT: Is it in any way concerned with statistics? But the answer is "statistical information is not available in the form desired by the honourable member and to compile it specially would entail an expenditure of time, labour and money which Government regret they cannot see their way to undertake."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Of course, the answer to (*a*) is "yes".

Mr. PRESIDENT: Where is it? Paragraphs (*a*), (*b*), (*c*), (*d*) and (*e*) have nothing to do with statistics. Only paragraph (*f*) is concerned with statistics. The answer which perhaps refers to paragraph (*f*) only, seems to have been carelessly prepared.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: All right, Sir. I promise to look into the matter.

Failure of crops in Faridpur.

63. Mr. HUMAYUN KABIR: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) if his attention has been drawn to the widespread failure of the *aus* crop in large parts of the Sadar subdivision of Faridpur;

(*b*) if he is aware that the jute crop in these areas is also unsatisfactory;

(*c*) if he proposes to grant relief by remission of rent in the affected areas; and

(*d*) if he proposes to take steps for the improvement of road and canal communication in these areas by opening relief construction works?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) On the average about 10 annas of the *aus* crop is reported to have failed in this subdivision.

(*b*) On the whole the jute crop in the area has not been satisfactory.

(*c*) The question of grant of relief will not arise till after it is seen how far the *aman* paddy which is the principal crop in the area has been successful.

(*d*) It is not considered necessary to open any relief works at present.

Mr. HUMAYUN KABIR: Arising out of (*c*), will the Hon'ble Minister please state if he is aware that the *aman* paddy also is not satisfactory in this locality this year?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it is too early to say that.

Mr. HUMAYUN KABIR: Is the Hon'ble Minister aware that there was at first insufficient rain and recently there has been a sudden increase of water in the area?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it may be that the prospects of *aman* paddy are not good, but one cannot yet definitely assert that it has failed altogether or even partially.

Mr. HUMAYUN KABIR: Are we then to understand that the Government will not take any steps till the crops are definitely known to have failed, and is it too late to take any steps?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If by "steps" the honourable member means steps for giving relief to the cultivators, no relief can be granted till there is distress, or rather, no relief is necessary till there is distress. Simply because the water has risen, relief is not justified.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister please state if the peasantry in this locality depend mainly on jute as their main money crop?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, everywhere in Bengal that is a fact.

Mr. HUMAYUN KABIR: In that case is the Hon'ble Minister prepared to say that there would be no distress in the area after the failure of the jute crop, as admitted in answer to (*b*)?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Failure of jute crop means loss of money crop, but it does not always mean distress.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister please define a state of affairs when there is no money crop and still there is no distress?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: In Western Bengal, as the honourable member is probably aware, the area of jute is very limited, but Western Bengal does not always suffer from distress where there is sufficient paddy.

Mr. HUMAYUN KABIR: Can the Hon'ble Minister deny that on the whole the Bengal peasantry live perpetually on the verge of starvation?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, that is a general question which I cannot answer.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister kindly state whether 6 annas crop is sufficient for the cultivators to go on till the *aman* crop is reaped, because he has said that 10 annas crop has failed?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It may be insufficient.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Are we then not to conclude that there has been distress and relief is necessary?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Those who are landless labourers are getting some work, and those who have got some lands are hoping that the *aman* crop will succeed. There is no actual distress at present, and they do not require any relief.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: How are they to get on till the *aman* crop is reaped?

Mr. PRESIDENT: That is a matter of opinion.

Mr. RANAJIT PAL CHAUDHURI: Considering the unsatisfactory state of crop, do not Government consider the desirability of not enforcing the education cess in that district?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I submit that question does not arise.

Distribution of the income of the Jessore District Board among subdivisions of the district.

64. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. K. C. Roy Chowdhury): (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state whether it is a fact that in the District Board, Jessore, the income received from every subdivision of the said district is not divided proportionately among them?

(*b*) If so, what is the reason thereof?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, Minister in charge of the Public Health and Local Self-Government Department): (*a*) Yes.

(*b*) The income of every district board is distributed for expenditure over the district as a whole according to the relative needs and requirements of the various parts of the district.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Are Government aware that unless there are some definite rules, the rate of distribution may be abused and the distribution may not be fair?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The fact is that there is no definite rule in this connection and as a matter of fact, the Local Self-Government Act does not empower Government to interfere. District Boards are local self-governing institutions with representatives of the people on them, and Government are very reluctant to interfere with their activities ordinarily.

Proposed Ladies' Park near Southern Avenue.

65. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. K. C. Roy Chowdhury): (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state whether the projected Ladies' Park in Scheme No. XLVII of the Calcutta Improvement Trust, between Southern Avenue and Monoharpooker Road, has been abandoned?

(*b*) If so, what are the reasons?

(*c*) Is it a fact that scores of people purchased lands in Southern Avenue close to the proposed park, in expectation of the advantages of a park?

(*d*) Has the Hon'ble Minister received memorials signed by hundreds of residents of the local Lake area, protesting against the said abandonment?

(*e*) Has he seen the editorial in the *Amrita Bazar Patrika* condemning the abandonment?

(*f*) Has he read reports in the local papers of several meetings protesting against the abandonment?

(*g*) Has the present Chairman of the Calcutta Improvement Trust decided to sell the site of the park to members of a particular community?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) It was proposed to have another park at right-angles to the existing Dhakuria Lake and Park, but it was never intended for the exclusive use of ladies.

(*b*) Owing to the proximity of the Lake and three other parks in the neighbourhood, the Board resolved that the proposal for the construction of the park be dropped and that the land comprised in the park be sold in plots as building sites for which there is a very great demand in that particular locality.

(*c*) No. Only one plot of land in the vicinity of this park has been sold but the transaction has not yet been completed.

(*d*) Only one memorial signed by 27 persons was received.

(*e*) to (*g*) No.

Announcement of names of Members elected to the Committee of Privilege.

Mr. PRESIDENT: I am to inform the honourable members that as a result of voting for the purpose of the Privilege Committee, the following members are declared elected in order of preference of votes secured by them:—

(1) Mr. Allan Forrester Stark.

(2) Mr. Shrish Chandra Chakraverti.

(3) Raja Bahadur Bhupendra Narayan Sinha, of Nashipur.

(4) Khan Bahadur Naziruddin Ahmad.

(5) Khan Bahadur Rezzaqul Haider Chowdhury.

(6) Mr. Dhirendra Lal Barua.

(7) Mr. Amulyadhone Roy.

Mr. MESBAHUDDIN AHMED: May I know the number of votes each member has secured?

Mr. PRESIDENT: Order, order. All relevant information will be available on the notice board. The Chief Whip of the Coalition Party is expected to know this.

Laying of the Bengal Jute Regulation (Amendment) Bill, 1940.

SECRETARY to the COUNCIL (Dr. S. K. D. Gupta): Sir, the following message duly signed by the Hon'ble the Speaker has been received from the Bengal Legislative Assembly:—

"The Bengal Jute Regulation (Amendment) Bill, 1940, as passed by the Bengal Legislative Assembly at its meeting held on the 6th August, 1940, has been duly signed by me and is annexed herewith. The concurrence of the Bengal Legislative Council on the Bill is requested.

M. AZIZUL HUQUE,

Speaker,

Bengal Legislative Assembly.

CALCUTTA:

The 12th August, 1940."

Sir, I herewith lay on the Table the Bengal Jute Regulation (Amendment) Bill, 1940, as passed by the Bengal Legislative Assembly at its meeting held on the 6th August, 1940.

Notices given by Hon'ble Ministers.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I beg to give notice that during the current session of the Council I shall move that the Bengal Jute Regulation (Amendment) Bill, 1940, as passed by the Bengal Legislative Assembly be taken into consideration and passed as settled in the Council.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, with your permission I propose to move in the Bengal Legislative Council on the 19th August, 1940, that the Bengal Revenues (Charged Expenditure) Bill 1940, as passed by the Bengal Legislative Assembly be taken into consideration and passed.

Sir, I crave your permission to allow me to move the motion at short notice.

Mr. PRESIDENT: What is the name of the Bill?

The Hon'ble Mr. H. S. SUHRAWARDY: The Bengal Revenues (Charged Expenditure) Bill.

Mr. NARESH NATH MOOKERJEE: Sir, the Hon'ble Minister has requested you to waive the rules regarding notice of his motion relating to this Bill. There are several important Bills which have been introduced recently and if you do not give us the usual time, we shall not be able to deal with all the provisions of those Bills in the way we would like to. I do not know if this particular Bill requires any consideration now. We have the Co-operative Societies Bill which is very important; the Bengal Jute Regulation Bill is also very important and we would like to put in amendments in connection with them. So, unless there is very great urgency about this Bill, I would request the Hon'ble Minister not to press for waiving of the rules.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I have no doubt that so far as the important Bills mentioned by the honourable member are concerned, they contain several clauses. But my Bill is a small Bill containing three clauses and it will not take much time. It deals with payments that have to be made under the Statute rather than to be voted by the House. I may point out in this connection that the Upper House does not exercise the right of voting in this matter and is not much concerned with it.

Mr. PRESIDENT: I would ask members to give notice of amendments for circulation or for reference to the Select Committee by 2 p.m. on Thursday next, so that the Bill may be taken up on Monday for consideration.

The House will now resume further consideration of the Bengal Shops and Establishments Bill, 1939.

The Bengal Shops and Establishments Bill, 1939.

Clause 9.

Mr. PRESIDENT: Clause 9 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that in sub-clause (*1*) of clause 9, the words "for not less than six consecutive days" be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 9, the words "for not less than six consecutive days" be omitted.

The question before the House is the motion of the Hon'ble Sir Bijoy Prasad Singh Roy, namely, that in sub-clause (*1*) of clause 9, the words "for not less than six consecutive days" be omitted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 9, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 10.

Mr. PRESIDENT: The question before the House is: that clause 10 stand part of the Bill.

(The motion was agreed to.)

Clause 11.

Mr. PRESIDENT: Clause 11 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that clause 11 be omitted.

Mr. PRESIDENT: Amendment moved: that clause 11 be omitted.

Mr. NARESH NATH MOOKERJEE: Sir, the Hon'ble Minister has not given any reason why he wants this clause to be omitted and in the absence of any reason I feel that we cannot really make up our minds as to the views we should take about it. I am inclined to think that the omission of this clause will convert places of amusement into little markets after closing hours in the evening. I do not really know why Government desire the deletion of this clause. After all, the clause, as it stands now, is very fair, because it states clearly that articles sold in any shop should not be kept for sale in any place of amusement. I do not suppose that there will be any difficulty if this clause is allowed to remain. I would like, however, to hear the reasons why it should be omitted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, the reason for the deletion of clause 11 is that it is too vague. We have decided to withdraw the clause because of the vagueness of the expression that no article of a kind similar to that which is kept in any shop for sale shall be sold. What exactly that means and conveys is difficult to decide. What are the articles which may be kept in any place and how far the analogy and the similarity will be carried, and what are the articles which should not be kept because they are similar to the articles in another shop, these are matters which it is very difficult to adjudge. I think, Sir, the courts will not be able to interpret this clause satisfactorily.

As regards the remark of my honourable friend who has just spoken that there is a danger that restaurants and places of public entertainment or amusement would be converted into little markets, we have considered this matter and therefore we have taken power to declare any such place as shops. As soon as we find that such bodies are taking advantage of there being no clause of this type, and are beginning to sell articles within their premises which are clearly outside the scope of their business, nothing will prevent us from declaring them as shops and bringing them within the purview of this measure. Sir, the result will be disastrous to the owners of those shops, and I doubt very much whether any such establishment will take the risk of being declared a shop, and being brought within the scope of this Bill.

Mr. HUMAYUN KABIR: Sir, I agree with the Hon'ble Mr. Suhrawardy that the drafting of this clause is not very clear, and I think that along with him the members of the Select Committee must also share in the responsibility for the bad drafting. But at the same time, I do not agree with him that it is absolutely unintelligible. It does make sense and the intention is very clear although it has not been couched in a clear wording. The intention is to prevent places of public entertainment or amusement from keeping certain commodities for sale or, in other words, frm transforming them into shops for the purposes of this measure. It is the sale of commodities like cigarettes or small drinks or even bigger drinks for which this clause is intended, and it may be that some of these establishments for public entertainment or amusement will sell these things not only within the premises but also to the public outside. To prevent the sale to people outside appears to be the intention of this clause. The person responsible for its drafting perhaps had in his mind a similar Act prevailing in England. There, within the premises of hotels and restaurants certain kinds of articles can be consumed, but you cannot take those articles outside the premises. That, I think, is the intention of this clause.

With regard to the other point suggested by the Hon'ble Mr. Suhrawardy, that with a view to preventing such outside sales he would declare the establishment of a shop for the purposes of this Act by an executive order, I think this is wrong in principle. It means that he would take matters like these outside the purview of the Legislature and have them remedied by an executive order of Government. Sir, when the Bill is before the House and we find that there is a defective drafting, it is far better that drafting amendments be made, and if they are made, I am sure you will permit them being moved here and accepted by the House. We should not, on principle, accept the idea

of Government's taking away the powers of the Legislature in this way and having such things done by the rule-making powers. This, I think, is nothing but an improper interference with the rights of the Legislature.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to point out in this connection that articles ordinarily to be sold in places of amusement are exempted from the operation of this Act. List of such articles are given in sub-clause (*i*) of clause 4 of this Bill, e.g., tobacco, cigars, cigarettes, *biris*, *pan*, etc. These articles are exempted from the operation of this Bill even outside the premises of amusement. Thus, the purpose for which my friend Mr. Mookerji wants to retain this clause will be achieved without this clause and I think it is absolutely unnecessary to have a provision like this. With these words, I support the deletion of this clause.

Mr. PRESIDENT: The question before the House is the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy, namely, that clause 11 will be omitted.

(The amendment was agreed to.)

Clause 12.

Mr. PRESIDENT: Clause 12 stand part of the Bill.

Mr. HUMAYUN KABIR: I beg to move that in clause 12 of the Bill, the following be added at the end, namely:—

> "and in case of contravention of this provision, such employees shall be entitled to realise their wages under the provisions of the Payment of Wages Act".

Sir, the purpose of this amendment is very simple. It is provided in the body of the Bill that all employees in shops and commercial establishments and other places shall be paid their wages by the 10th of every month. But there is no provision as to how this provision can be enforced. In many cases it may be that the payment will not be made. In such cases, it would not be possible for the employees to go to a Court of law in order to realise their arrears. It is not possible for labourers to do so and in their case this difficulty has been realised. That is why in the case of factories and other places of small business, the employees have been given the option of going to the Commissioner for payment of wages and making applications to him and he generally takes steps to realise any arrears of wages. My purpose in moving this amendment is to grant the same privilege to the shop assistants.

Mr. PRESIDENT: *Amendment moved: that in clause 12 of the Bill, the following be added at the end, namely:—*

"and in case of contravention of this provision, such employees shall be entitled to realise their wages under the provisions of the Payment of Wages Act".

Mr. NARESH NATH MOOKERJEE: Sir, I wish to accord my fullest support to this amendment of Mr. Kabir. Sir, I suppose the Hon'ble Minister is aware that in commercial establishments which are not run by the European community—and in some cases even in such establishments—there have been several instances where petty clerks had had to sue the firms for money. I think, Sir, some provision of this nature should be incorporated in order that some relief could be given to these poor wage-earners whom we have practically excluded from the purview of this Bill.

I, therefore, support the amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am not quite certain if in the Payment of Wages Act there is no provision for the extension of the provisions of the Act to any establishment that we want to apply it to. As a matter of fact, I considered the question of extending the Payment of Wages Act to some establishments run by the honourable member who has just spoken, but for the time being I have dropped it. On this question, Sir, if Mr. Humayun Kabir will refer to section 18, he will find that contravention of this section has been provided for and a person who contravenes this section is liable to be punished under section 18, sub-clause (2). Therefore, it is not strictly correct to say that there is no punishment or there is no penalty for any person contravening section 12. In view of this fact, I regret I have to oppose the amendment.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Humayun Kabir, namely, that in clause 12 of the Bill, the following be added at the end, namely:—

"and in case of contravention of this provision, such employees shall be entitled to realise their wages under the provisions of the Payment of Wages Act".

(The amendment was negatived.)

Mr. HUMAYUN KABIR: Sir, I beg to move that after clause 12 of the Bill, the following new clause be added, namely:—

"12A. All wages payable in a commercial establishment to the clerks and bearers shall be regulated and disbursed on the same basis as adopted by the Government of Bengal in its Secretariat."

Sir, this is an amendment for which also I do not think many words are needed. There is some protection no doubt for the persons employed in shops and commercial establishment or establishments for public entertainments in clause 12 of the Bill, but in the case of the petty clerks and bearers in banks and other commercial establishments, it is necessary that there should be a specific procedure laid down for the payment of wages to them. The procedure which is actually followed by the Government of Bengal has been found convenient to the Government, I am quite sure, and also to the persons concerned. If a similar procedure is applied to these banks, it will be giving real relief to a class of persons who are very much in need of it.

Mr. PRESIDENT: Amendment moved: that after clause 12 of the Bill, the following new clause be added, namely:—

"12A. All wages payable in a commercial establishment to the clerks and bearers shall be regulated and disbursed on the same basis as adopted by the Government of Bengal in its Secretariat."

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I beg to support the amendment moved by Mr. Humayun Kabir. Sir, anybody who has even a perfunctory acquaintance with the conditions of service under the commercial establishments, owned particularly by the Europeans in Calcutta and its suburbs, will testify to the fact that these conditions are as unsatisfactory and as miserable as they can ever be. The initial salary given to an employee is very small, regular increment is never encouraged, promotion on merit is hardly resorted to and security of tenure is never the rule in these establishments. I know of many cases where a graduate is employed in the first instance on Rs. 25 and does not get any rise in salary for 8 or 9 years. Such instances may be multiplied *ad infinitum*. Apart from these conditions of service again, these employees are also not certain of good treatment at the hands of their European superior officers. In fact, bad treatment of the clerks is a common feature in all these concerns. It is true, Sir, that there is a greater supply of, than demand for candidates for jobs in these concerns. But that is no reason why this helpless situation should be exploited as it is being exploited in the different commercial offices of Calcutta to-day.

I am not here raising the question of the virtual European monopoly of all superior offices in European establishments. I am not, Sir, asking the House to consider on this occasion if such monopoly should be allowed to continue. But I am asking the Legislature to intervene in respect of the conditions of service of the subordinate employees, as without such intervention their position is being worsened every day.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I could not follow the trend of the remarks of the honourable member who has just spoken. If he says that we should enquire into the conditions in the commercial establishments, I have already stated yesterday that I propose to do it. If he is objecting to the fact that there is no increment of pay from time to time, I do not know whether Mr. Humayun Kabir himself meant that by payment of wages being regulated and disbursed on the same basis as adopted by the Government of Bengal there should be a time scale of pay and conditions of service of that nature. But it is very gratifying to find, Sir, that a zemindar member of this House is accusing commercial establishments of smallness of pay, and of the fact that there are no increments of pay. I hope, Sir, the honourable member will apply the principle which he has enunciated on the floor of the House to his own concern.

I am opposing Mr. Humayun Kabir's amendment because I find it too vague and I am not quite certain whether it does not offend against clause 12 which says that all wages shall be paid by the tenth day of the month. I am not quite certain, although I have some connection with the Government of Bengal, as to what is the precise basis adopted by the Government of Bengal. But I think that commercial establishments will find it very difficult to apply whatever basis is applicable to a Government establishment.

Mr. PRESIDENT: The question before the House is: the amendment of Mr. Humayun Kabir, namely, that after clause 12 of the Bill, the following new clause be added, namely:—

> "12A. All wages payable in a commercial establishment to the clerks and bearers shall be regulated and disbursed on the same basis as adopted by the Government of Bengal in its Secretariat."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 12 stand part of the Bill.

(The motion was agreed to.)

Clause 13.

Mr. PRESIDENT: Clause 13 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that in clause 13—

> in sub-clause (*a*), for the word "eleven", the word "twelve" be substituted and for the words "one month", the words "fourteen days" be substituted; and.....

Mr. PRESIDENT: I think the second part should be moved as a separate amendment, because this latter part deals with clause (*b*). There are other amendments to clause (*a*) and I do not know whether they will be moved. So, I put the first portion first.

Amendment moved: that in clause 13—

in sub-clause (*a*), for the word "eleven", the word "twelve" be substituted and for the words "one month", the words "fourteen days" be substituted.

Mr. HUMAYUN KABIR: Sir, with regard to the amendment which has been moved by the Hon'ble Sir Bijoy Prasad Singh Roy, I think it can be divided into two parts. The first part is with regard to the period of continuous employment which he requires before a person employed in a shop or commercial establishment can be entitled to leave and the second part is with regard to the period of such leave.

Now, with regard to the first part, I think that the Hon'ble Mr. Suhrawardy will bear me out that there was a great deal of discussion about this matter and we went by the actual procedure in the city at the time. It was found out that at present after eleven months' continuous service in many of the establishments employees are given privilege leave or some sort of leave. It is of course not quite regularised and there is no statutory basis for it; but the general idea is that if they work for ten or eleven months the employees are entitled to leave after that. Therefore, the Select Committee came to the conclusion that this should not be interfered with and that after every eleven months of continuous employment, they should be entitled to a certain period of privilege leave on full pay. I fail to understand what has happened since then to make the Government change its mind. The Government Bill itself was introduced several months ago. It was referred to a Select Committee and there has been a great deal of discussion outside and inside the Legislature with regard to the different provisions of this Bill. What is it that suddenly makes the Government decide to change from eleven months to twelve months?

Again, if you go by analogy in Government services, Government officers also, I believe, are entitled to leave after eleven months' continuous service. For every eleven months' service, persons in the superior service are entitled, if I am not mistaken, to two months' privilege leave on full pay and persons who are not covered by superior service rules are entitled to a month's privilege leave. Therefore, it is recognised that eleven months' work entitles a person to one month's holiday and I do not see any reason why in the case of shop assistants and employees in commercial establishments or establishments for public entertainment there should be a different principle.

Then, Sir, with regard to the other half of Sir Bijoy's amendment —would you take them separately or together?

Mr. PRESIDENT: I shall take them separately. The House is now considering only part (*a*) of the clause.

Mr. HUMAYUN KABIR: Then, Sir, I will deal with the second portion later on.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, if the period of 14 days is accepted, I do not think that it makes very great difference whether it should be eleven months and a half or twelve months. Actually, there may be something to say between eleven months and twelve months if we grant one month's leave, but the way in which we have proceeded to interpret this is that leave, casual or privilege, or leave of any kind given voluntarily, counts as service, and therefore it is not essential that twelve months' actual service should have been put in before a person shall get any leave inasmuch as his leave will be counted as service if taken within the period of service. If the other interpretation is correct, then it may just be that every single employee after a period of eleven months and a half may come up and demand his leave, and the employer will be bound to give him leave after eleven months and a half. Suppose, we start a shop and engage a number of employees, say, about 30 or 40, at a time, and as soon as eleven months and a half expire all the 30 or 40 men will come up and say "we must get our leave now, because we have earned it". It must then be given to them after eleven months and a half. In order to avoid such difficulties as these arising, and really because there is no great difference between eleven months and a half and twelve months, we have re-drafted the clause in this manner. Actually, we propose that leave should be given in the same manner as it would have been, had eleven and a half been put in there.

Now, there is one point which has been raised by Mr. Humayun Kabir which I may take this opportunity to clarify, viz., that there are some shops in which, say, one month's leave is given after ten months' service, some shops in which one month's leave is given after eleven months' service, and so on. Now, Sir, if there are some shops that do give more liberal conditions of service than are given under this Bill, which are really the minimum conditions of service which every shop must observe, then the rights of the employees of those shops that get better conditions of service will continue to be safe under clause 21. Therefore, so far as they are concerned, their rights will not be interfered with. I may point out here that I have received representations from the shop assistants giving expression to their fear that any provision in the Bill

regarding leave may induce the employers to cut down those amenities which they are enjoying at the present moment. Sir, we propose to take serious notice of any laches or of any attempt on the part of a shopkeeper to take advantage of this compulsory provision to cut down the privileges or amenities which the employees are now enjoying, and we shall attempt as far as lies in our power to safeguard their rights.

Mr. PRESIDENT: The question before the House is the——

Mr. HUMAYUN KABIR: Sir, you said that you would take the latter part of the amendment later and that you would give us an opportnnity to speak.

Mr. PRESIDENT: No, that was about the other part, sub-clause (*b*).

The question before the House is the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy, namely, that in clause 13—

(*1*) in sub-clause (*a*), for the word "eleven" the word "twelve" be substituted and for the words "one month", the words "fourteen days" be substituted.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that—

(*2*) after clause (*b*) the following proviso be inserted, namely:—

"Provided that—

(*i*) privilege leave admissible under clause (*a*) may be accumulated up to a maximum of not more than twenty-eight days, and

(*ii*) casual leave admissible under clause (*b*) shall not be accumulated."

Mr. PRESIDENT: Amendment moved: that—

(?) after clause (*b*) the following proviso be inserted, namely:—

"Provided that—

(*i*) privilege leave admissible under clause (*a*) may be accumulated up to a maximum of not more than twenty-eight days, and

(*ii*) casual leave admissible under clause (*b*) shall not be accumulated".

Mr. NARESH NATH MOOKERJEE: Sir, I rise to oppose this amendment, because it is definitely a retrograde provision which tends to make the conditions in which the clerks are working at present much more difficult than they are. In the first instance, the employer may not give any leave in two years. According to sub-section (*1*), the leave can be accumulated up to 28 days, and so the clerk may not be allowed to take leave for two years. Sub-section (*2*) certainly makes the whole position, particularly with regard to the employees of commercial establishments whose working hours are indefinite, very much difficult. I am surprised that an amendment of this character should have been introduced. It has entirely altered the character of the Bill In the first place, the leave is being reduced and Government are giving the employers all chances of victimising their employees. This is really unheard of. Then again, the clerks in the commercial establishments could be made to work till 10 o'clock at night and the employers could not be penalised, while the employees are going to be penalised and will not get leave for two years. This is a state of things to which we cannot subscribe.

Mr. HUMAYUN KABIR: May I be permitted, Sir, to move a short-notice amendment to the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy?

Mr. PRESIDENT: Yes, provided Government have no objection.

Mr. HUMAYUN KABIR: Sir, I suggest that in the amendment which has been moved by the Hon'ble Sir Bijoy Prasad Singh Roy in the first sub-clause, in place of the words "twenty-eight days," the words "two months" be substituted. The effect of this would be that the privilege leave admissible under clause (*a*) may be accumulated up to a maximum of two months. That is the purpose of the amendment which I want to be incorporated.

Mr. PRESIDENT: I should like to have the opinion of Government with regard to this amendment. Is Government willing to accept it?

The Hon'ble Mr. H. S. SUHRAWARDY: No, Sir.

Mr. HUMAYUN KABIR: If I am permitted to give my reasons, perhaps Government might be prepared to change their opinion, but without hearing me, it is not proper for Government to refuse to allow me to move my amendment.

Mr. PRESIDENT: If there is no serious objection from Government, I would like to permit Mr. Humayun Kabir to move his amendment.

Mr. HUMAYUN KABIR: Sir, to the amendment moved by the Hon'ble Sir Bijoy Prasad Singh Roy, I beg to move a further short-notice amendment that the words "twenty-eight days" be substituted by the words "two months". The object of my amendment is to enable shop assistants, particularly those who come to Bengal from other provinces, to have an opportunity of going to their homes after a certain period. When earlier, the Hon'ble Mr. Suhrawardy was speaking on the other part of this clause, he suggested as if the shop assistants, as a matter of right, would get leave whenever they wanted it. That, I think, is not the case, and the Bill does not provide that shop assistants can, as a matter of right, take leave. Even Government servants under the Government Servants' Conduct Rules, though they earn their leave and are entitled to have it, cannot take leave whenever they want to. They simply earn the leave but at the same time Government sometimes refuse to grant leave to their employees. Similarly, it may be that shop employers in certain cases may also refuse leave to their employees at a particular time. All that is provided in this clause is that they will be entitled to such leave within such period, but the granting of it will depend on the option of the employer. Now, the purpose of the amendment I have moved is to enable the employees to take advantage of these leave rules. At present, we have cut down the period from on month to fourteen days and there is a proviso that it can accumulate up to twenty-eight days so that in every two years they can either take the leave or it may be exhausted. If they have to go on leave after every two years, the expenses may be such that they cannot take advantage of the rules. They cannot afford to go home after every two years and consequently they have to lose a portion of their leave. If the employer is willing to grant leave and the employee is also willing to take it, he can go home for a fortnight every year; but, on the other hand, if he wants his leave to accumulate and wants to go home for a longer period, say, for a month or a month and a half, I do not see any reason why Government should prevent the employer, if he is willing, from giving this facility of long leave to his employee. The amendment of Sir Bijoy Prasad does not give any compelling power either to the employer or the employee in the matter of taking or granting leave. What I suggest is that there should be a permissive clause to allow the employee to accumulate his leave up to a period of two months, because that is a reasonable period in the case of a person coming from outside the province. I think, in view of these considerations Government will have no objection to accepting this amendment.

Mr. PRESIDENT: Amendment moved to the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy: that the words "twenty-eight days" be substituted by the words "two months".

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I see that Mr. Humayun Kabir does not accept the interpretation of Mr. Naresh Nath Mookerjee. Mr. Humayun Kabir thinks that by accumulation of leave an opportunity is afforded to the employee not to take leave for a number of years at his discretion, whereas Mr. Naresh Nath Mookerjee thinks that it gives opportunities to the employer to refuse the leave. I am afraid, on this question I have to agree with Mr. Humayun Kabir, and not with Mr. Naresh Nath Mookerjee, that we are introducing a liberal measure and not a retrograde one. Had not this amendment been put in, the employee would have been compelled to take his leave within the year, or his right to take leave would be exhausted. In order, therefore, to give him an opportunity to go home, say, for a period of twenty-eight days, we have put in this amendment.

Mr. Humayun Kabir goes to the other side altogether and opines that the employee should be allowed to accumulate his leave for four years. One of the reasons why we have made a provision for leave in this Bill is that every one ought to take leave; he should not remain without leave for such a long period as four years because that will impair his efficiency. We think that employees ought to take leave at least once every two years, and that is the reason why we have not permitted the leave to be accumulated for more than two years. This is a liberal measure in so far as it permits the employee to accumulate his leave to a certain extent but it does not go so far as Mr. Humayun Kabir wants it to go. There is another point to which I should like to refer. If an employee is allowed to take twenty-eight days' leave, it is possible that a small shopkeeper or employer will be able to carry on his business without taking in a substitute in his place, but if he is allowed to take leave for two months, he may not possibly be able to carry on without the help of a substitute and this may put the employer in some difficulty. For these reasons, Sir, I am sorry I cannot accept Mr. Humayun Kabir's amendment.

Mr. PRESIDENT: I shall first put the amendment to the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy.

The question before the House is: that for the words "twenty-eight days", the words "two months" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that in clause 13, after clause (*b*), the following proviso be inserted, namely:—

"Provided that—

(*i*) privilege leave admissible under clause (*a*) may be accumulated up to a maximum of not more than twenty-eight days, and

(*ii*) casual leave admissible under clause (*b*) shall not be accumulated."

(The amendment was agreed to.)

Mr. HUMAYUN KABIR: Sir, I beg to move that after clause 13 of the Bill, the following clause 13A be inserted, namely:—

"13A. A person employed in a shop, commercial establishment for public entertainment or amusement who has been engaged to serve or has been in continuous service in such shop or establishment——

The Hon'ble Mr. H. S. SUHRAWARDY: On a point of order, Sir. I would request you to give your ruling whether it is within the scope of the Bill or not.

Mr. PRESIDENT: Mr. Humayun Kabir, as regards your amendment, I would like to hear you before I decide whether it is in order or not. In the preamble it is clearly stated that the Bill is for regulating the holidays, etc. "Whereas it is expedient to regulate the holidays allowed to, the hours of work of.....", that is in the preamble, and in the Statement of Objects and Reasons provision has also been made for sick leave, for payment of wages and for payment of overtime work. The Bill seems not to provide for remedies for all kinds of the grievances of the employees. Will you please explain how your amendment will be relevant?

Mr. HUMAYUN KABIR: Sir, I beg to submit that this amendment is in order because we have here the question of regulation of holidays, hours of work, etc. But in addition to that, there is also the question of payment of wages. Payment of wages, I think, will also include the wages to which an employee may be entitled if he is dismissed suddenly or if he is suddenly deprived of employment. It is a break in the service. Leave also is included in the period of service, and there is provision for the payment of wages during periods of leave. When it is suddenly terminated, there would come in the question whether there should be any provision at all for the payment of wages in such circumstances, or whether the service will terminate suddenly, or whether his relationship will stop altogether, or whether his relationship will continue till there has been payment of one month's wages or whatever other provisions that might be accepted here. That was the reason, Sir, for which I table this amendment, and I submit that you will hold that it is in order.

Mr. PRESIDENT: In the Statement of Objects and Reasons, I find, it stated that the Bill "will afford very *necessary relief* to the

shop assistants." It is, therefore, clear that the purpose of the Bill is to afford relief to the shop assistants. Interpreting liberally, I think that the proposed amendment is not outside the scope of the Bill. So, I hold the amendment to be in order.

Mr. HUMAYUN KABIR: Mr. President, Sir, I beg to move that after clause 13 of the Bill, the following clause 13A be inserted, namely:—

"13A. A person employed in a shop, commercial establishment for public entertainment or amusement who has been engaged to serve or has been in continuous service in such shop or establishment for a period of not less than six months shall before dismissal, discharge or retrenchment be entitled to a months's notice or a month's wages in lieu thereof."

Sir, this amendment seeks to provide an element of security in the service of shop assistants or employees in commercial establishments which is lacking in this Bill. There are many provisions in this Bill which we have welcomed, but it has been one of the big lacunæ in the conception of this Bill that no attempt has been made to provide security of tenure to those who are employed in shops or in commercial establishments or other establishments of this type. Sir, it actually is the case that often a man has served for 15 years or 20 years. Then suddenly one fine morning, because there is some difference of opinion or disagreement with the employer, he is thrown out of court; he is dismissed without a moment's notice, and all his service for this long period of time is forgotten. Not merely that, Sir. It also makes him unable to find out a new avenue of employment at this late stage of his life. If there were any provision for notice or in lieu of that any provision for the payment of a month's salary, this would give an opportunity to such an employee to try and find out some employment for himself. At present he has no such security at all.

Besides, a provision like this would also act as a check on the employer before he dismisses a person arbitrarily and suddenly. I think, Sir, it is only meet and proper that after a man has worked as assistant in a firm for some time he should not be dismissed arbitrarily. It has not been suggested in the amendment that anybody who is an employee shall be entitled to notice. It has been suggested that an employee, who has been engaged for a period of six months or has served continuously for a period of six months, so that the employer has some idea about his capacity, his capabilities and about his willingness to work, will be entitled to notice. If he is unwilling to work, the employer can dismiss him. But, if for six months he has

been found to be satisfactory the presumption would be that the employer has had no reason to dismiss him in the past and he might have no reason to dismiss him in future without sufficient provocation and without sufficient cause. Therefore, Sir, I think some such provision is necessary in the Bill to provide for the security of tenure of employees.

Sir, one point which was raised in some discussion with regard to the idea of a clause like this was as follows: why should not an employer have the liberty of dismissing an employee without any notice? Why should not an employer have this liberty? Well, Sir, that is an idea which might have been popular in the nineteenth century and the State might have tolerated such things. But, to-day the State definitely lays down rules in other avenues of employment where a person cannot be dismissed off-hand, simply because he happens to offend his employer in a particular way. If he is dismissed for any of the causes specified in the Bill or on any actionable ground, there is no hardship on the employee. That is granted on all hands. But if it is a case where he is dismissed in a moment of passion or because for some reason or other in a fit of temper the employer dismisses him, the employee must have some safeguard.

I, therefore, Sir, move this amendment.

Mr. PRESIDENT: Amendment moved: that after clause 13 of the Bill, the following clause 13A be inserted, namely:—

"13A. A person employed in a shop, commercial establishment for public entertainment or amusement who has been engaged to serve or has been in continuous service in such shop or establishment for a period of not less than six months shall before dismissal, discharge or retrenchment be entitled to a month's notice or a month's wages in lieu thereof."

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, this question was raised in the Select Committee and but for certain adverse comments made on it, it would have been passed. As a matter of fact, the Hon'ble Labour Minister is only too anxious to give maximum benefit to the labour——

Khan Bahadur NAZIRUDDIN AHMAD: On a point of order, Sir. Is it permissible to refer to what took place in the Select Committee?

Mr. PRESIDENT: It will be out of order to disclose in the House what transpired in the Select Committee.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: As a matter of fact, Mr. Humayun Kabir also spoke something about the Select Committee. Sir, the practice of paying wages in lieu of notice obtains everywhere in the offices managed by my honourable European Colleagues. The practice is there all over the world, even in second-class or third-class industrial countries. Weekly-paid men are given weekly notices; monthly-paid men are given monthly notices.

There is another important factor. It is only natural that when a man who has got to maintain a family gets a sack, he has to search for a job. He cannot get a job immediately. You must consider as to how he is going to manage to live before getting a fresh job. Therefore, I think the whole House should agree to this very important concession and the Government should accept the amendment.

Mr. NARESH NATH MOOKERJEE: I only hope, Sir, Mr. K. C. Roy Chowdhury is serious when he supports the amendment of Mr. Humayun Kabir. I certainly support this amendment, Sir, and feel that when you have already ruled that it comes within the scope of the Bill and that this is a measure which in your opinion is likely to ameliorate the conditions existing at present with regard to leave and wages, that Government would be kind enough to accept it also. Really speaking, I do not know whether I should appeal to the Government or to the European Group, but, Sir, I will certainly extend my appeal to both for acceptance of this amendment. It may be that it is in vogue already, it may be also that the existing law provides that every employee should be given a month's notice before discharge; but, Sir, I do not think it will do any harm if a clause of this kind is specially inserted in this Bill. It will add to the usefulness of the Bill and I think, Sir, that Government should accept it.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: I support this motion only with a little amendment—if I may be allowed to move the amendment—viz., the word "dismissal" be deleted. My idea is that in the case of dismissal, the servants should not be allowed to get one month's pay or salary. If he is found guilty, then he should not get one month's salary or one month's notice. In that case, instead of being punished, the offender will be rewarded. None can demand such concession. But in other cases, in the case of discharge or retrenchment, I think a servant is entitled to get one month's notice or in lieu, one month's salary. May I move the amendment, Sir, with your permission?

Mr. PRESIDENT: No. I am afraid you are too late.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I regret I will have to oppose this amendment. If we accept this amendment, the effect would

be that we would be giving employees a reward for his bad behaviour. Suppose, a servant steals his master's goods. If this provision is enacted, he will be entitled to a month's wages or he will have to be retained by the employer for a month even after this behaviour. Again, if he deliberately mismanages the affairs of his employer, still before dismissing or discharging him the employer will have to retain him for at least a month with full pay. A servant giving a slap on the master's face cannot be dismissed at once but must be rewarded by a month's pay. This would be absurd. I think there is no reason why this should be allowed. In other words, in trying to give some benefit to the employee we are introducing needless difficulties in the way of employers. So, I oppose the amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, after what has been said by Khan Bahadur Naziruddin Ahmad, I do not think it is necessary for me to offer any remarks in opposing this amendment. I may say that I have every sympathy with the mover. But the amendment is so vague that it would be unwise to insert a provision like this in the Bill. The Raja Bahadur of Nashipur himself finds a certain amount of difference between dismissal and discharge, and is of opinion that in the case of dismissal one month's wages should not be given. Further, the amendment is one-sided. If you require security for the employees, the employers also require some security. You will take away that security from the employers if this amendment is accepted. For these reasons I have no other alternative but to oppose it.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Humayun Kabir, namely, that after clause 13 of the Bill, the following clause 13A be inserted, namely:—

> "13A. A person employed in a shop, commercial establishment for public entertainment or amusement who has been engaged to serve or has been in continuous service in such shop or establishment for a period of not less than six months shall before dismissal, discharge or retrenchment be entitled to a month's notice or a month's wages in lieu thereof."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 13, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 14.

Mr. PRESIDENT: The question before the House is: that clause 14 stand part of the Bill.

(The motion was agreed to.)

Clause 15

Mr. PRESIDENT: Clause 15 stand part of the Bill.

Mr. W. B. G. LAIDLAW: Sir, I beg to move that for clause 15 of the Bill, the following be substituted, namely:—

"15. (*1*) Every shopkeeper and employer of an establishment for public entertainment or amusement shall for the purposes of this Act maintain such records and registers, and display such notices, as may be prescribed.

(*2*) Every employer of a commercial establishment shall for the purposes of this Act maintain such records and registers as may be prescribed."

With the elimination of clause 8, the question of overtime hours does not arise, and therefore it seems to us that it is not necessary to display any notices in commercial establishments. The House is perhaps aware that Insurance Companies and Banks depend to a large extent on their nature and amount of work, and we do not consider it proper in any case that unslightly notices should disturb the harmony of furnishing.

Mr. PRESIDENT: Amendment moved: that for clause 15 of the Bill, the following be substituted, namely:—

"15. (*1*) Every shopkeeper and employer of an establishment for public entertainment or amusement shall for the purposes of this Act maintain such records and registers, and display such notices as may be prescribed.

(*2*) Every employer of a commercial establishment shall for the purposes of this Act maintain such records and registers as may be prescribed."

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I accept this amendment.

Mr. PRESIDENT: The question before the House is: that for clause 15 of the Bill, the following be substituted, namely:—

"15. (*1*) Every shopkeeper and employer of an establishment for public entertainment or amusement shall for the purposes of this Act maintain such records and registers, and display such notices, as may be prescribed.

(2) Every employer of a commercial establishment shall for the purposes of this Act maintain such records and registers as may be prescribed.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 15, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 16.

Mr. PRESIDENT: The question before the House is: that clause 16 stand part of the Bill.

(The motion was agreed to.)

Clause 17.

Mr. PRESIDENT: Clause 17 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that for clause 17, the following be substituted, namely:—

"17. Subject to the rules, an Inspector appointed under section 16 may, for the purposes of this Act and within the local limits for which he is appointed, at all reasonable times enter into any place which is, or which he has reason to believe is, a shop or a commercial establishment or an establishment for public entertainment or amusement, with such assistants, if any, being servants of the Crown, and make such examination of that place and of any prescribed record, register or notice maintained therein, as may be prescribed, and may require such explanation of any prescribed record, register or notice as he may consider necessary for the purposes of this Act:

Provided that no person shall be required under this section to answer any question or give any evidence tending to criminate himself".

Mr. PRESIDENT: Amendment moved: that for clause 17, the following be substituted, namely:—

"17. Subject to the rules, an Inspecor appointed under section 16 may, for the purposes of this Act and within the local limits for which he is appointed, at all reasonable times enter into any place which is, or which he has reason to believe is, a shop or a commercial establishment or an establishment for public entertainment or amusement, with such assistants,

if any, being servants of the Crown, and make such examination of that place and of any prescribed record, register or notice maintained therein, as may be prescribed, and may require such explanation of any prescribed record, register or notice as he may consider necessary for the purposes of this Act:

Provided that no person shall be required under this section to answer any question or give any evidence tending to criminate himself".

The question before the House is: the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy, namely, that for clause 17, the following be substituted, namely:—

"17. Subject to the rules, an Inspector appointed under section 16 may, for the purposes of this Act and within the local limits for which he is appointed, at all reasonable times enter into any place which is, or which he has reason to believe is, a shop or a commercial establishment or an establishment for public entertainment or amusement, with such assistants, if any, being servants of the Crown, and make such examination of that place and of any prescribed record, register or notice maintained therein, as may be prescribed, and may require such explanation of any prescribed record, register or notice as he may consider necessary for the purposes of this Act:

Provided that no person shall be required under this section to answer any question or give any evidence tending to criminate himself".

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 17, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 18.

Mr. PRESIDENT: Clause 18 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that for sub-clause (*1*) of clause 18, the following be substituted, namely:—

"18. (*1*) Whoever contravenes any of the provisions of sections 5, 6, 7, 9 or 10 shall, on conviction, be punishable with fine

which, for a first offence, may extend to two hundred and fifty rupees and, for a second or any subsequent offence, may extend to five hundred rupees."

Mr. PRESIDENT: Amendment moved: that for sub-clause (*1*) of clause 18, the following be substituted, namely:—

"18. (*1*) Whoever contravenes any of the provisions of sections 5, 6, 7, 9 or 10 shall, on conviction, be punishable with fine which, for a first offence, may extend to two hundred and fifty rupees and, for a second or any subsequent offence, may extend to five hundred rupees."

Mr. HUMAYUN KABIR: Mr. President, Sir, I should have been more at ease if the Hon'ble Minister had explained the purpose of his amendment. In the original Bill clause it is suggested that persons who contravene these provisions may be liable to punishment which may extend up to six months or to a fine which may extend up to Rs. 500 or both. There is no compulsion that such persons shall be actually sentenced to imprisonment. They are only liable to imprisonment. But now I find that by the new amendment Government want to take away even the liability to imprisonment. In other words, Government do not want to face even the possibility that if there should be an employer who has contravened this provision, which Government themselves are bringing forward, he should be subject to any punishment beyond payment of a fine of Rs. 250, which in certain cases may be a very small punishment indeed. In the case of certain big employers probably Rs. 250 is nothing at all. I do not say that a big employer will necessarily be imprisoned, but the fear of imprisonment would probably act as a far greater deterrent to a big employer than the question of Rs. 250 or Rs. 500. For, to a big employer the indignities which would be attached to imprisonment would be a far greater deterrent than the actual loss of Rs. 250 as a result of this fine. I do not exactly oppose this amendment, but I would like to know what is the intention of Government in changing their mind in this way and bringing in an amendment which is much milder than the one which was first brought forward and which was allowed to go through the Select Committee.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I think Mr. Humayun Kabir's argument contains its own refutation. His question supplies the answer. My friend wants to know why the punishment has been milder. The answer is that it is so because the House believe that the provisions should be milder. This is the only reason. The change arose out of an amendment tabled by Mr. Nur Ahmed. He thought that the provisions should be more humane. These are, after

all, technical offences; and since we are creating new offences, we should allow people some time to get accustomed to them. We do not want to provide for any imprisonment, for it will not be a nice thing to send people to jail for mere technical offences. I believe we should put the screw tighter rather gradually. As people get educated to new habits and thoughts and as they know things better, they would appreciate the need for punishment better. It is no good bringing in by legislation which would be resented by the people. We want the co-operation of the people. That was the reason behind this amendment. Mr. Nur Ahmed's amendment was accepted by our party and the Hon'ble Minister-in-charge has also agreed. We thought that the provisions should be humanised and not made very harsh at the beginning. That is the reason behind the acceptance by the Government of this amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, Mr. Humayun Kabir knows that long long ago there lived an Emperor in Japan who, through the lips and music of Messrs. Gilbert and Sullivan, told us that the punishment must fit the crime. Sir, the crimes which we have made under these various sections are not such as to merit imprisonment. A fine of Rs. 250 extending up to Rs. 500 for each offence seems to us to be ample and to fit the crime.

Mr. PRESIDENT: The question before the House is: that for sub-clause (*1*) of clause 18 the following be substituted, namely:—

> "18. (*1*) Whoever contravenes any of the provisions of sections 5, 6, 7, 9 or 10 shall, on conviction, be punishable with fine which, for a first offence, may extend to two hundred and fifty rupees and, for a second or subsequent offence, may extend to five hundred rupees."

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (*2*) of clause 18 of the Bill, the figure and comma "11," be omitted.

This arises out of the deletion of clause 11, and I think in the amendment proposed by the Government this was overlooked. So, I have taken the earliest opportunity of correcting it; it is simply consequential on the deletion of clause 11.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 18 of the Bill, the figure and comma "11," be omitted.

(The amendment was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that in sub-clause (2), of clause 18, for the words "simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both", the words "with fine which may extend to fifty rupees" be substituted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (2) of clause 18, for the words "simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both", the words "with fine which may extend to fifty rupees" be substituted.

(The amendment was agreed to.)

Mr. HUMAYUN KABIR: Sir, I beg to move that in clause 18 of the Bill, a new sub-clause (3) be added, namely:—

(3) Any employer discharging, dismissing or otherwise victimising an employee of any shop, commercial establishment or establishment for entertainment or amusement for giving any information leading to prosecution under sub-section (1) or (2) of this section, shall, on conviction, be punishable with rigorous imprisonment which may extend to six months, or with fine which may extend to rupees five hundred or with both, and shall pay compensation to the employee at the rate of one month's salary for each year of his employment."

Sir, when I first drafted this amendment I was more or less persuaded by the form of the clause which the Government itself had brought before us. The Government for a much lesser offence had suggested that the persons contravening the provisions of this Act shall be liable to a rigorous imprisonment of six months or to a fine of Rs. 500. But since then I find that after a perusal of the Mikado the Hon'ble Mr. Suhrawardy has grown humane and as a result, from rigorous imprisonment and fine of Rs. 500, he now thinks in terms of either no imprisonment at all or fines of either Rs. 50 or Rs. 250. Well, Sir, in conformity with this general humanising effect which seems to have overtaken the Government I may also be permitted to take out of the amendment the phrase with regard to rigorous imprisonment. If you permit me to do that I will have no objection. In that case I will take out the clause with regard to rigorous imprisonment.

Then, with regard to the other part of the amendment which I have moved, I think it again fills a lacuna which is present in the Government Bill. Government has made certain provisions for the punishment of persons who contravene some of the provisions of this Act, but

it has not made any provision with regard to employees who may be victimised in fulfilling some of the terms of this Act. If you look at section 18, you will find that it is only an employer who can contravene these provisions. An outsider cannot fail in the payment of wages in due time, an outsider cannot fail in the closing of shops. Therefore, it is in every case the employer who is kept in mind in sub-clause (*1*) and sub-clause (*2*) of clause 18 and my amendment only wants to add one further provision to that, namely, where an employer victimises an employee for giving information under the provisions of this very Act. An employer should not be penalised and lest he be penalised, there should be certain deterrent sentences upon the employer. It therefore, seeks to provide that in the case of conviction of an employer who has been guilty of dismissing, discharging or otherwise victimising an employee under the provisions of this very Act itself, he shall be liable to a fine which may extend up to Rs. 500.

I think, Sir, this is an amendment which does not require further argument.

Mr. PRESIDENT: Amendment moved: that in clause 18 of the Bill, a new sub-clause (*3*) be added, namely:—

"(*3*) Any employer discharging, dismissing or otherwise victimising an employee of any shop, commercial establishment or establishment for entertainment or amusement for giving any information leading to prosecution under sub-section (*1*) or (*2*) of this section, shall, on conviction, be punishable with rigorous imprisonment which may extend to six months, or with fine which may extend to rupees five hundred or with both, and shall pay compensation to the employee at the rate of one month's salary for each year of his employment."

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I had given notice of almost a similar amendment. I certainly am fully in agreement with Mr. Humayun Kabir.

Mr. HUMAYUN KABIR: You go much further.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Yes, probably in respect of compensation; otherwise it is the same.

My idea is that unless there is some penal clause against victimisation, the very object of this Act will be frustrated. Because, Sir, we know,—and it is within my personal knowledge,—that even in Government offices victimisation takes place and responsible Government officers are guilty of it. Responsible Government officers are accustomed to victimise their clerks on even mere suspicion. So, unless there is

something against stopping this sort of victimisation, the very object of this Act will be frustrated. But, Sir, at the same time as we have been proceeding very cautiously, it has been thought advisable by Government that we should not put in anything of this nature just now in this Bill. The whole question will, however, be very closely watched and, if necessary, afterwards a provision like this will be inserted. For that reason, Sir, I am not going to move my amendment. But I am in full sympathy with the object of this amendment.

Khan Bahadur NAZIRUDDIN AHMAD: I am afraid, Sir, there is a technical flaw in the draftsmanship of this amendment. The mere reading of a portion of the amendment will convince the House that it is so. It is said that persons on conviction shall be punishable with rigorous imprisonment which may extend to rupees five hundred. I beg to submit that imprisonment cannot extend to rupees five hundred. Apart from this technical difficulty, on merits too I have to oppose this amendment.

Mr. HUMAYUN KABIR: On a point of information, Sir. The honourable member was probably sleeping at the time I moved the amendment, because the printing mistake in the list was corrected by me when I moved the amendment.

Mr. PRESIDENT: He read it correctly. The Chair has also read the amendment.

Khan Bahadur NAZIRUDDIN AHMAD: I submit, Sir, that it is not a point of information. My honourable friend has really given rather than sought it. Coming to the merits of the amendment, I believe that if we accept this clause, the effect will be to express a pious opinion. Suppose, a man is justly dismissed; the effect of the amendment will be that he would go to some authority and try to persuade him that he was victimised. The effect of this would be endless litigation and endless trouble, and trouble on both sides. I submit, Sir, that in these circumstances a clause like this should not be accepted. You have not defined the term "victimisation". It is an obscure expression and it would be difficult to interpret in a court of law when you think of a criminal prosecution. It is no good trying to provide against victimisation without defining it. It is further not easy to define it. As we acquire experience in the actual working of the Bill and know the defect and flaws, then it will be time to make provisions suitable to the needs disclosed. I think it is too early now to think of an amendment of this kind.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: With regard to the amendment of Mr. Humayun Kabir, I must say that perhaps he has not read the Factories Act nor does he know what evolution has been

effected by the accumulated experience of the working of the Factories Act. In fact, the Factories Act regulates the working hours and conditions of service of factory hands. Naturally, with the experience of the working of the Factories Act all over the world, there would have been some provision made as embodied in the present amendment, if found necessary. But there is no such provision in any Factories Act. If a man is victimised for giving out an information, there will at once be a strike.

Mr. HUMAYUN KABIR: Not in shops.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Why not? There is the Shop Assistants' Union who will at once move in the matter and cause a strike if victimisation is proved. Further, the employer will be sued for wrongful dismissal. For these reasons, and particularly because nowhere in the factory legislations of the world such an amendment as this one has been inserted, I would oppose the amendment.

Mr. NUR AHMED: Mr. President, Sir, at first sight, nobody can have anything but sympathy with the spirit of this amendment, but the amendment is from all practical points of view an impossible one. If this amendment is carried, it will open up the flood-gates of litigation, and will destroy the good relationship that subsists between the employer and his employees, between the shop-keeper and his assistants, to a great extent. Whenever there will be a case of dismissal, the dismissed man will come up and state that he has been dismissed for giving out an information. Who is to decide, Sir, as to whether his statement is correct or false? There is no tribunal to decide that. This clause would remain a dead letter unless a Trades Disputes Act is passed at the same time. Sir, I do not think that there is any necessity for this clause, and so I oppose this amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: This amendment has certain good features and I sympathise with it. I think employers who by bullying their employees wish to avoid the provisions of this Act should be penalised for their acts. At the same time, I think that we should first see how this Act works before we put in such a drastic amendment. I am further of opinion that a clause like this may be a little bit confusing. I have known of instances when persons who have been dismissed for very adequate reasons have come up to us and asked Government to intervene on the false statement that they have been dismissed or have been victimised for joining a union. Here also similar instances may very well arise and I am considering whether in order to settle disputes under this Act, we should not devise some

machinery similar to that under the Trade Disputes Act. That is however a matter for the future. For the time being, I have to oppose this amendment.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Humayun Kabir: that in clause 18 of the Bill, a new sub-clause (*3*) be added, namely:—

"(*3*) Any employer discharging, dismissing or otherwise victimising an employee of any shop, commercial establishment or establishment for entertainment or amusement for giving any information leading to prosecution under sub-section (*1*) or (*2*) of this section, shall, on conviction, be punishable with rigorous imprisonment, which may extend to rupees five hundred or with both, and shall pay compensation to the employee at the rate of one month's salary for each year of his employment."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 18, as amended, stand part of the Bill.

(The motion was agreed to.)

Clauses 19, 20 and 21.

Mr. PRESIDENT: Clauses 19, 20 and 21 stand part of the Bill.

The question before the House is: that clauses 19, 20 and 21 stand part of the Bill.

(The motion was agreed to.)

Clause 22.

Mr. PRESIDENT: Clause 22 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in sub-clause (*2*) (*a*) of clause 22 of the Bill, for the words "in respect of" in line 1, the words "on account of" be substituted.

Sir, these are only verbal changes.

Mr. PRESIDENT: The question before the House is: the amendment of Khan Bahadur Naziruddin Ahmad, viz., that in sub-clause (*2*)(*a*) of clause 22 of the Bill, for the words "in respect of" in line 1, the words "on account of" be substituted.

(The amendment was agreed to.)

Mr. W. B. G. LAIDLAW: I beg to move that in paragraph (*b*) of sub-clause (*2*) of clause 22, of the Bill, the comma and words, " , commercial establishments" occurring in line 3, be omitted.

I also beg to move that in paragraph (*b*) of sub-clause (*2*) of clause 22 of the Bill, the words, brackets and figures "sub-section (*1*) of section 8" occurring in lines 7 and 8, be omitted.

I further beg to move that in sub-clause (*2*) of clause 22 of the Bill, paragraph (*c*) be omitted.

Sir, these are all consequential amendments and may be accepted.

Mr. PRESIDENT: The question before the House is the three amendments of Mr. W. B. G. Laidlaw, viz.:—

(1) That in paragraph (*b*) of sub-clause (*2*) of clause 22 of the Bill, the comma and words, " , commercial establishments" occurring in line 3, be omitted.

(2) That in paragraph (*b*) of sub-clause (*2*) of clause 22 of the Bill, the words, brackets and figures "sub-section (*1*) of section 8" occurring in lines 7 and 8, be omitted.

(3) That in sub-clause (*2*) of clause 22 of the Bill, paragraph (*c*) be omitted.

(The amendments were agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 22, as amended, stand part of the Bill.

(The motion was agreed to.)

Preamble.

Mr. PRESIDENT: The Preamble be added to the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that for the Preamble, the following be substituted, namely:—

"to regulate the holidays, payment of wages and leave of persons employed in shops, commercial establishments and establishments for public entertainment or amusement and the hours of work of persons employed in shops and the establishments for public entertainment or amusement".

Mr. PRESIDENT: Amendment moved: that for the Preamble, the following be substituted, namely:—

"to regulate the hoildays, payment of wages and leave of persons employed in shops, commercial establishments and establishments for public entertainment or amusement and the hours of work of persons employed in shops and the establishments for public entertainment or amusement".

The question before the House is that for the Preamble, the following be substituted, namely:—

"to regulate the holidays, payment of wages and leave of persons employed in shops, commercial establishments and establishments for public entertainment or amusement and the hours of work of persons employed in shops and the establishments for public entertainment or amusement".

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that the Preamble, as amended, be added to the Bill.

(The motion was agreed to.)

Long Title of the Bill.

Mr. PRESIDENT: The Long Title be added to the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that for the Long Title, the following be substituted, namely:—

"to regulate the holidays, payment of wages and leave of persons employed in shops, commercial establishments and establishments for public entertainment or amusement and the hours of work of persons employed in shops and the establishments for public entertainment or amusement".

Mr. PRESIDENT: Amendment moved: that for the Long Title, the following be substituted, namely:—

"to regulate the holidays, payment of wages and leave of persons employed in shops, commercial establishments and establishments for public entertainment or amusement and the hours of work of persons employed in shops and the establishments for public entertainment or amusement".

The question before the House is the amendment of the Hon'ble Sir Bijoy Prasad Singh Roy, namely, that for the Long Title, the following be substituted, namely:—

"to regulate the holidays, payment of wages and leave of persons employed in shops, commercial establishments and establishments for public entertainment or amusement and the hours of work of persons employed in shops and the establishment for public entertainment or amusement".

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is that the Long Title, as amended, be added to the Bill.

(The motion was agreed to.)

The Hon'ble Mr. H. S. SUHRAWARDY: I beg to move that the Bill, as settled in the Council, be passed.

Sir, I desire to congratulate the honourable members for the expeditious manner in which they have dealt with the provisions of this Bill. It is a major Bill which is being awaited with a great deal of interest by the persons who will be affected by the various clauses of this Bill. It is a lesson to Government also, and we shall do well to initiate Bills of this type in this House, after the excellent reception we have received here.

Mr. PRESIDENT: Motion moved: that the Bill, as settled in the Council, be passed.

Mr. RANAJIT PAL CHAUDHURI: On a point of order, Sir. I do not think that the Bill can be passed to-day having regard to the procedure laid down by you that if there is objection, a Bill, as settled in the House, cannot be passed on the same day. Sir, we want a day for putting forth our views on the Third reading:

Mr. PRESIDENT: Under sub-section (2) of section 67 of our Rules, any member may raise an objection as regards the passing of a Bill at the same sitting unless, of course, the President exercises his power to suspend the rule and allows the motion that the Bill be passed. But if there is objection from the principal Opposition, I shall not take up the motion to-day.

Mr. Mookerjee, is that the view of your party?

Mr. NARESH NATH MOOKERJEE: Yes, Sir.

Mr. PRESIDENT: The House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 14th August, 1940.

Members absent.

The following members were absent from the meeting held on the 13th August, 1940:—

(1) Mr. Kader Baksh.

(2) Rai Bahadur Keshab Chandra Banerjee.

(3) Khan Sahib Abdul Hamid Chowdhury.

(4) Mr. Narendra Chandra Datta.

(5) Mr. Kamini Kumar Dutta.

(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(7) Alhadj Khan Bahadur Shaikh Muhammad Jan.

(8) Maulana Muhammad Akram Khan.

(9) Sir T. Lamb.

(10) Dr. Radha Kumud Mookerji.

(11) Rai Bahadur Radhica Bhusan Roy.

(12) Khan Bahadur M. Shamsuzzoha.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 14th August, 1940, at 2-15 p.m. being the eleventh day of the Second Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Encashment of currency notes.

66. Mr. K. C. ROY CHOWDHURY: (*a*) Is the Hon'ble Minister in charge of the Finance Department aware that there has of late been a panic and confusion among the public for encashment of currency notes? If so, what is the reason for that and what measures Government have taken or intend to take to remove this feeling of uneasiness and anxiety on the part of the public?

(*b*) Is it a fact that there is a standing law in India penalising those who illegally charge commission at the time of encashing currency notes?

(*c*) Is it a fact that some merchants and *mahajans* are carrying on this illegal practice taking advantage of this confusion among the illiterate public?

(*d*) Is it a fact that they are charging a commission of annas 8 for encashing a five-rupee note and Re. 1 for ten-rupee note in Naldi Bazar, Brahmandanga *hat*, Mithapur *hat*, Lohadanga police-station, Pazarkalia *hat*, Suraspur *hat*, Rupganj *hat*, Narail police-station, Bunagati *hat*, Salkia police-station, in the district of Jessore?

(*e*) If the answers to clauses (*b*) and (*d*) be in the affirmative, what steps have the Government taken or intend to take to prevent this practice and remove this confusion among the public?

(*f*) Will the Hon'ble Minister be pleased to inform the House how many times did the District Magistrates, Police Superintendents and Deputy Superintendents of Police of Jessore and the Subdivisional Officers of Narail and Magura investigate into the marketing conditions of the above-mentioned *hats* and *bazars*, and what measures did they take to remove the panic among the public due to the war conditions?

(*g*) When were these places inspected and what was the result of the inspection?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) Government are aware that a good deal of inconvenience was recently occasioned to the public by the shortage of metallic currency caused by the withdrawal of coin from circulation for purposes of hoarding. The inconvenience has abated as a result of continuous minting of rupees, the issue of one-rupee notes and the minting of small coins by the Government of India.

(*b*) The charging of commission is punishable under rule 90 of the Defence of India Rules.

(*c*) and (*d*) Government will be glad to receive specific information which will enable them to prosecute.

(*e*) District Magistrates have been directed to take prompt action in cases where local traders refuse to accept notes at their full value.

(*f*) and (*g*) The information is not readily available and will take time to collect.

Mr. RANAJIT PAL CHAUDHURI: Will the Hon'ble Minister be pleased to state if Government is definitely aware that actual hoarding is taking place?

The Hon'ble Mr. H. S. SUHRAWARDY: Yes, that is our information.

Mr. RANAJIT PAL CHAUDHURI: Will the Hon'ble Minister be pleased to state if it does not come under rule 90 of the Defence of India Rules?

The Hon'ble Mr. H. S. SUHRAWARDY: That is a matter of interpretation. Certainly, hoarding has caused a great deal of inconvenience to the public and may be considered to be a prejudicial act.

Mr. K. C. ROY CHOWDHURY: Will the Hon'ble Minister be pleased to state if he is aware that even one-rupee notes are refused in certain quarters?

The Hon'ble Mr. H. S. SUHRAWARDY: No, Sir, such information has not yet come to us.

Improvement of Chhatna-Alijhara Road.

67. Rai Bahadur MANMATHA NATH BOSE: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state the allotment from the Motor Vehicles Taxes made to the District Board of Bankura during the last three years?

(*b*) Are the grants from the Motor Vehicles Taxes to the said District Board utilised for the improvement of those roads where there are heavy bus services?

(*c*) How much has been spent for the improvement of the Chhatna-Alijhara Road out of the above allotment?

(*d*) Is it a fact that several motor services are running regularly on the Chhatna-Alijhara Road for the last ten years?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) Rs. 24,363 in 1937-38, Rs. 25,302 in 1938-39 and Rs. 37,231 in 1939-40.

(*b*) to (*d*) During the last two years it has been the practice for local bodies with the exception of some small municipalities to obtain my approval of projects which they proposed to finance from their share of the proceeds of the Motor Vehicles Tax, but I have not thought it necessary to ask them for details of the traffic on the roads with which they proposed to deal. I have not been asked to approve of any project in connection with the road referred to by the honourable member.

Bridge over the Cossye river.

68. Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*a*) if the construction of the bridge over the Cossye river at Midnapore has been undertaken, and if so, when;

(*b*) whether any contractor has been appointed for the purpose;

(*c*) if the answer to clause (*b*) be in the affirmative, whether the contractor is a Bengali or a non-Bengali;

(*d*) whether tenders were invited; on what principle the contractor has been selected and by whom; and

(*e*) whether the Government have come to any decision regarding compensation to the Midnapore Municipality which will suffer a heavy loss; if so, what is the decision?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar:

(*a*) Yes; work was actually started in August, 1939.

(*b*) Yes.

(*c*) Bengali.

(*d*) The answer to the first part of the question is in the affirmative. The principle was that of accepting the best tender after taking into

consideration the main features, such as cost, capabilities of the contractors, time of construction, etc. The tender was accepted by the Chief Engineer after consultation with me.

(*e*) Government have decided that no compensation should be paid to the Midnapore Municipality for the loss of income consequent on the construction of the bridge as the inhabitants of the municipal area will benefit largely from the bridge and this benefit will more than outweigh the slight decrease in their municipal income.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state how the Municipality will be benefited by the construction of this bridge?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, it will mean greater facility for traffic to the Municipality and from the other side of the river than a ferry.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state if it is not a fact that the Municipality get from Rs. 4,000 to Rs. 6,000 a year from the ferry tolls which they will lose by the construction of this bridge?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I may point out to the honourable member that the amount which the Municipality get from ferry receipt should not be treated as an income of the Municipality. That income was made over to them by Government for the maintenance of the ferry.

Rai Bahadur MANMATHA NATH BOSE: Is it not practically the same? Is it not a fact that the Municipality will lose the benefit of the ferry tolls which they have been getting for some years past?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: May I assume, Sir, that the honourable member wants Government not to proceed with the construction of the bridge as it will be of no use to the Municipality.

Mr. RANAJIT PAL CHAUDHURI: Will the Hon'ble Minister be pleased to state the name of the contractor?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I think it is the Hindusthan Construction Company.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state if he is aware that the Municipality objected to the construction of the bridge on account of the loss which the Municipality is likely to suffer?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I am not quite sure about that. But even if it did, I think the benefit which the local areas of the district will get as a result of the construction of the bridge will outweigh the small loss which the Municipality may have to sustain.

Notice of Motion regarding the Bengal Co-operative Societies Bill, 1940.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I beg to give notice that I intend to move at the current session of the Legislative Council that the Bengal Co-operative Societies Bill, 1940, as passed by the Bengal Legislative Assembly, be taken into consideration by the Council and that the Bill, as settled in the Council, passed.

I beg further to request that I may kindly be permitted to move the motions at short notice at the meeting of the Council on the 19th August, next.

I may explain, Sir, that I have put down 19th August as the date for moving short-notice motions, just to give an opportunity to the honourable members of a preliminary discussion, should they so desire and should that suit your pleasure. The consideration of the Bill, clause by clause, may take place on and from the 27th August, 1940, after the honourable members have had sufficient time to consider the Bill and put in their amendments.

Mr. NARESH NATH MOOKERJEE: I do not know what the Hon'ble Minister means by preliminary discussion. Does he refer to the first reading of the Bill?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Yes.

Mr. NARESH NATH MOOKERJEE: Sir, it is a very important measure. In the Lower House it was very elaborately gone into and Government gave all facilities to the members there in the matter of tabling their amendments.

Mr. PRESIDENT: The Hon'ble Minister proposes that the Bill may be taken up for discussion, clause by clause, on the 27th August, which means an interval of 13 days from to-day. So, if the honourable

members who desire to give notice of amendments send in such amendments by the 20th of this month, that will give them clear six days' time.

Mr. AMULYADHONE ROY: That is not possible.

Mr. PRESIDENT: What is not possible? How many days do you want for giving notices of amendments?

Mr. AMULYADHONE ROY: We want ten days, Sir.

Mr. PRESIDENT: Rule 79 of the Bengal Legislative Council Procedure Rules says that any member may, after giving seven days' notice or with the consent of the President at shorter notice, move as an amendment either that the Bill be referred to the Committee of the whole Chamber or to a Select Committee or be circulated for the purpose of eliciting opinion thereon. So, only seven days' notice is necessary when Bills come from the Lower House for consideration.

Mr. NARESH NATH MOOKERJEE: Are we to understand that the amendments for circulation or reference to Select Committee have to be given within seven days and that the other amendments will follow thereafter?

Mr. PRESIDENT: Seven days' notice will include all amendments for reference to Select Committee, for circulation as well as to the clauses of the Bill.

Mr. HUMAYUN KABIR: The amendments relating to circulation or Select Committee may be thrashed out on the 19th August and after the motions are disposed of one way or the other, we will know what is to be done. If the motions are thrashed out by the 19th, time up to the 23rd August may be allowed for tabling amendments to the clauses and that will give three or four days' time for the Council office to arrange and print up matters, so that the Bill may be taken into consideration on the 27th August.

Mr. PRESIDENT: I understand that the honourable members suggest that for giving notices of amendments the House will require four or five days' time and that they will require four or five days more from the 19th August. But Mr. Roy's point is quite different; he wants ten days for giving notices of amendments.

Mr. NARESH NATH MOOKERJEE: The Hon'ble Minister has stated that he does not want detailed discussion to take place till the 27th August and in that view we may be permitted to send in our amendments up to the 25th August.

Mr. PRESIDENT: From the 14th to the 25th means eleven days and then you must allow my office a few days more to consolidate and print up the amendments.

The Hon'ble Mr. H. S. SUHRAWARDY: The honourable members may also allow Government a few days in order to enable them to consider the amendments suggested.

Mr. NARESH NATH MOOKERJEE: Sir, we have no objection to the 23rd of August being fixed for sending in notices of amendments.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: What I submit is this: as has been pointed out by my friend, Mr. Humayun Kabir, if the preliminary discussion can be finished on Monday, the 19th August, then, Sir, discussion on the clauses can be taken up on the 27th August. There is nothing to prevent the honourable members from tabling amendments up to the 20th or the 21st of August. In that case, office will have sufficient time to get those things put in proper form and we will also have some time to consider the amendments.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I suggest that time up to the 20th of August would be sufficient for notices of amendments both for preliminary discussion as well as for detailed discussion on the clauses being given. I think, Sir, six days ought to be sufficient for this purpose. The matter has been before the public for some time now and I assume that the honourable members who are interested in this measure have already given their thought to this question.

Mr. PRESIDENT: I think the House is anxious to get this Bill passed during the current session, if possible. Considering all things, I would suggest that amendments for circulation or Select Committee should be given notice of by the 17th August. Then the last day for giving notice of amendments on clauses will be till the 21st August. That gives clearly seven days' time.

The House will now resume consideration of the motion of the Hon'ble Mr. Suhrawardy that the Bengal Shops and Establishments Bill, 1939, as settled in the Council, be passed.

The Bengal Shops and Establishments Bill, 1939.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to support the motion, and in doing so I must thank Mr. Humayun Kabir for initiating the idea of regulating the hours of work for the shop assistants by his original Bill of which the present Bill is the successor. It was his splendid idealism that conceived the plan and we are indebted to him for being able to place on the Statute Book this very good Bill. It will mean a great deal of relief to shop assistants and others, and will be the beginning of many more good things to come. Although he would have been satisfied with much more than what has been given, I think the Bill is a very good beginning and he should be satisfied with what has been given as a first instalment.

Sir, with regard to the clauses, I think it is necessary for us to refer to the deletion of clause 8. Regarding this clause, our position is that shops are a class quite apart and absolutely distinct from commercial establishments which are not shops. The evils in a shop have been attempted to be cured by fixing certain hours of work everyday. A certain maximum period has been fixed of which a clear notice should be exhibited in each shop, and violations can thus be easily detected on the spot and dealt with very effectively. It has also been provided that shops must close at 8 p.m. with half an hour's margin for customers who are already in the shop. With regard to the enforcement of the provisions relating to shops, it is extremely easy to do so because any man living near about a shop can at once see whether it has been kept open too long or whether it has been kept open beyond 8 p.m. or 8-30 p.m., as the case may be. With regard to commercial establishments, it is obviously impossible to provide a maximum daily period, and opening and closing hours for each day. Clause 8 and other subsidiary clauses do not even attempt to do so. Commercial establishments have sometimes little or no work, and sometimes they have to work very hard. They have to deal with and tackle problems which arise by fits and starts. There is a lot of alteration between comparative inaction and overwork. So, regular daily hours for a commercial establishment of that type it would be impossible to provide. It was, therefore, provided by clause 8 that they should be given a monthly total number of working hours and some extra hours for rush period and rush work. That was the attempt. Now the difficulty in all this, so far as we are concerned, is this: that it is very difficult to prove infringement. On a particular day a commercial establishment may work extra hours. That is not prohibited. You will have to wait till the monthly total is exceeded. You will have to remember that there are a large number of commercial establishments of a variety of types and forms dealing with various complex problems. In dealing with them you will have to depend on the monthly total

and you can only do so by referring to their registers. Otherwise, it would be impossible to find out whether there has been any infringement or not. The effectiveness of a prohibition depends on easy detection and proof of infringement and the punishment therefor. If you have to rely on their books, the difficulty would be that it would bring trouble. There are good and honest businessmen, and businessmen who are just the reverse of it. If you rely on their books, then the difficulty will be that honest businessmen, who would not exceed the monthly total, will be bothered and troubled unnecessarily. The Inspectors will intrude upon them with many attendant evils. With regard to dishonest businessmen, they will work extra hours and manipulate their books. Their books will never show any violation. Now, this will lead to endless trouble. Clause 8, therefore, cannot prevent the mischief. That is the position of our Party. There is, of course, the other side of the shield. There are evils in commercial establishments which are not clearly known to us, though there are some which are broadly known, and there were some of us who thought that clause 8 should be retained. After a great deal of anxious consideration, the Party came to the conclusion that there are evils which require solution. There is no doubt about that in our mind and we are unanimous in that opinion. But clause 8, as many of us think, will not be able to cope with the evil. The evils in commercial establishments are not uniform. Each business or class of business is a problem by itself and would probably require special treatment. The problem, therefore, requires detailed study and critical consideration. The business houses will have to be taken into consideration and also into our confidence. Their problems will have to be studied and their co-operation will be necessary. In fact, if we rush through clause 8, the difficulty would be that we would be putting many honest businessmen to trouble and we would thus lose the advantage of co-operation of the honest business public while the wily and the elusive class will escape. So, in these circumstances it would be far better to wait for sometime and gain some experience and then start a fresh legislation really suited to commercial establishments. These were in brief some of the reasons which have induced us to agree to the deletion, and the Hon'ble Minister also agreed to it.

Now, Sir, coming to the other clauses of the Bill, there are still a few passages which require deletion consequent upon the deletion of some clauses. In fact, we have been working very hard, the whole Party was working at a high pressure, and still it must be confessed that we have up to this time not been able to do our work very thoroughly. In fact, the Government amendments were not thorough. I have pointed out one or two such instances during the consideration of the clauses. But, I think, the deletion of clause 8 has not been followed up by consequential deletions. I think it is too late to move an amendment

to that effect, but I believe it is open to the Secretary to correct them. It would be profitable to mention here the clauses which require further deletion to bring the Bill into line with the deletions already agreed to. I refer to clause 22, sub-clause (*2*) (*b*). I suggest that the Secretary should delete the following words:—(Mr. SHRISH CHANDRA CHAKRAVERTI: How can that be?) It can be done in this way. This is a consequential amendment, a purely formal amendment. Under the rules the Secretary can make these changes. If it cannot be done, I shall certainly withdraw, but I believe, it is open to the Secretary to correct it. I think it would be better for the House to hear what the troubles is. I suggest that the words "sub-section (*1*) of section 8" occurring in lines 7 and 8 of clause 22——

Mr. W. B. C. LAIDLAW: On a point of information, Sir. That was the amendment which I moved yesterday and it was accepted.

Khan Bahadur NAZIRUDDIN AHMAD: I am grateful for the correction. If it is already done, it is not required. My oversight was due to the high pressure under which we were working. But by pointing out a supposed error in the Bill, I was just beginning to please my Congress friends. I am very sorry that the disclosure by Mr. Laidlaw has deprived me of the happiness of pleasing them. They would have been very happy if there was some mistake somewhere in the Bill. The explanation given by Mr. Laidlaw, I think, has very much disappointed my friends. During the consideration of the clauses, we did not move most of our amendments and this very much puzzled my friends of the Opposition. The reason was that the amendments of our party as well as those of all others were carefully considered by the Party with the Hon'ble Minister in charge. The result was that they were blended into a series of revised amendments moved through the Hon'ble Leader of the House. In this case, I find the Congress amendments were very scanty. There was nothing to feel glorious about, there was no element of excitement in this Bill and no grandiloquent passages to indulge in. That is why this humble Bill did not attract so much attention from Mr. Das as other Bills and subjects have done. So, if my friends had carefully considered the Government amendments, they would have found that these amendments were mere re-drafts of some of our own amendments and of a few others of the European members. Sir, that is the reason why we did not move our amendments. You will be pleased to find, Sir, that amendments to clauses 2, 4, 5, 9, 11, 13, 17 and 18—most of these amendments are merely reconsidered drafts of our amendments. For these amendments, credit must go to the European members and to our Party and specially to Mr. Nur Ahmed who has worked much for this Bill, and of course some credit goes to a new member from the Congress Benches who is, I am happy to find,

taking much interest in his work. I submit, Sir, that our failure to move these amendments was not due to weakness or to a consciousness that they are wrong or bad, but it was due to the superior consciousness that our amendments had been accepted by Government and put forward by them in a revised and better form as a result of our careful consideration and concurrence thereto.

With these few words, I submit, Sir, that the Bill marks a great advance. Though some of my idealist friends would like to have a more advanced Bill, I submit, the Bill as a whole marks a great advance. It makes a good beginning, and I venture to think it contains within it the seeds of a great future. With these few words, I support the Third reading of the Bill.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, it hardly falls to the lot of the Opposition to see eye to eye with most of the measures of Government. It is one of those rare occasions when we are in a position to congratulate the Hon'ble Minister in charge of the Bill for having successfully piloted it in this House with the least possible delay. Sir, we are in agreement with the principles of the Bill. In fact, Congress Governments have passed similar Bills long ago. The present Bill is founded on the Bombay Act.

Mr. HUMAYUN KABIR: No, No; my Bill was not withdrawn.

Mr. LALIT CHANDRA DAS: The principles of the Bill were enunciated from this side of the House in a Bill which was sponsored by my friend, Professor Humayun Kabir, and I remember, it was the Hon'ble Minister for Labour who requested Mr. Kabir to withdraw the Bill on a promise that a similar Bill would be brought by Government. That led Mr. Kabir to withdraw his Bill——

Mr. HUMAYUN KABIR: No, No; my Bill is not withdrawn.

Mr. LALIT CHANDRA DAS: But I can say that that led Mr. Kabir to agree to the Government bringing in this Bill. Therefore, I woud say that Mr. Kabir may take pride that some of the provisions of his Bill are, in a way, being given effect to by this measure. Khan Bahadur Naziruddin Ahmad has said that we put in a large number of amendments to any and every Bill but we have not done so with regard to this Bill except some by Mr. Roy Chowdhury. Sir, we look upon the duties of the Opposition in quite a different light. We do not stand here for the sake of opposition only, but when we oppose, our opposition is based on reason, justice and fairplay. We may be outvoted but never out-argued and nothing can deter us from the course

we think we should adopt in connection with any measure. But a curious thing has happened in connection with this Bill, namely, that although a very large number of amendments have been tabled by Khan Bahadur Naziruddin Ahmad and Mr. Nur Ahmed of the Coalition Party, they have either not moved them or have withdrawn them as readily as they had given notices of them. Before doing so or assuming the role opposition, they ought to have remembered that a cooing dove can hardly become a fighting cock.

Sir, the provisions of this Bill may effect some amelioration of the condition of a very large body of labourers in the shops in Calcutta and Howrah, for after all, it is only an experimental measure to be applicable to Calcutta and Howrah for the present. It will be found that there are wholesome provisions in the Bill which will come as a relief, viz., the payment of wages on a fixed date and the fixation of the hours of work and the days of leave. We would have been more happy, Sir, if hours of work were also fixed in respect of the employees in the commercial establishments, but the Hon'ble Mr. Suhrawardy has given us to understand that he will seek information first, gather them and study them; and then he will bring in a measure in March next. Sir, so far as the European commercial establishments are concerned, the Hon'ble Minister has told us that there is hardly any room for complaint by the employees, for the employees do not work there for more than 208 hours in a month. At the same time, the Hon'ble Minister has given us to understand that there are other commercial establishments in this city, mostly owned by the Marwaris, and we now know, Sir, why the European community is so anxious that section 8 must go for the present. The fact is that although in the European establishments the hours of work go below 208 hours in a month, the hours of work in Marwari commercial establishments go far above that figure; and because the Marwaris are nothing but the agents of the Europeans, the latter want to save the former and that is the reason why there is no relief in the case of the employees in the Marwari commercial establishments. After all, work carried on in the Marwari commercial establishments is work that will benefit the Europeans in the long run; and that was why the European Group insisted that the provision regarding the hours of work need not be gone into for the present. The Hon'ble Minister, however, has promised to collect information and bring in a Bill in March next for regulating the hours of work in commercial establishments also.

Sir, there is another point to which I should like to refer. The working time clause has been put in and carried by Government; we have not been quite satisfied with the definition of the term "closed". The clause is to the effect that an establishment will not deal with customers when they come after due hours but the shutters may remain

open. We have some apprehension and suspicion that if the shutters remain open in any shop or establishment, it will enable customers to come in and there may be clandestine sale of goods beyond the hours fixed by the statute.

Then, Sir, there is the other and last point which I should like to touch upon. It is a matter which found a place in the amendment moved by my friend, Mr. Humayun Kabir, but this has not been accepted by Government. There should have been a provision for the purpose of compensating persons illegally dismissed or discharged by giving them at least a month's notice or a month's wages. This has not found a place in the Bill because there was some mistake in its wording for which reason it was opposed by the Hon'ble Minister and subsequently thrown out. We would be happy if in a subsequent legislation the Hon'ble Minister will take note of it and see that in the case of wrongful dismissal or discharge, the employee gets at least some compensation, say, a month's notice or a month's wages. On the whole, Sir, the provisions contained in the Bill will certainly go a long way to give some sort of relief to a large body of employees, and for this, Sir, I offer my congratulations to the Hon'ble Minister, and support the Third reading of the Bill.

Mr. J. B. ROSS: Mr. President, Sir, I rise to support the motion now before the House. I think the remarks of Mr. Lalit Chandra Das may have given the Hon'ble Minister an idea under which he might introduce another Bill in the next session for the protection of European firms who are oppressed by their Marwari agents. That there has for some time been a pressing demand for legislation to regulate the hours of persons employed in shops is generally known and the members of the European Party are of opinion that the Bengal Shops and Establishment Bill, 1940, as settled in this House, is an admirable answer to that demand.

From the amendments moved and comments made by the Opposition, and particularly by my honourable friend Mr. Humayun Kabir, it might appear a fanciful extravagance on my part to suggest that the Bill has throughout had the strongest possible support of a large number of employers to whom its provisions will apply, but I am in a position to state with authority that this is the case and that the Calcutta Trades Association, the largest Association of employers of shop assistants in Bengal, have declared themselves to be in full sympathy with the objects of the measure and to be strongly in favour of its finding a place in the Statute Book of the Province.

Since the commencement of Provincial Autonomy and in respect of legislation for the welfare of the employees, there has at times been a tendency on the part of members of the legislatures and sometimes on

the part of Government to relegate employers to the role of "Villains of the piece" and to introduce a few tit-bits into such legislation to make employers, as it were, "sit up".

Whilst I have the greatest admiration for the zeal of my friend Mr. Humayun Kabir in his efforts to obtain relief for those who suffer oppression in their employment, I would suggest to him that he is not free from this trait and that as a result much of the force of his arguments is affected adversely by the estrangement of support which he might otherwise count upon.

The imprisonment provisions in the penal clauses of the Bill, as originally drafted, illustrate my point. These were to fall almost entirely on the employer. I congratulate the Government and the House on their good sense in taking these highly objectionable provisions out of the Bill.

Likewise, Sir, there is nowadays a tendency when a demand for social legislation arises to widen the scope of such legislation far beyond the demand.

In this Bill the introduction of clause 8 to regulate hours in commercial establishments is a case in point. Those concerned with the interests of commercial establishments have co-operated freely in regard to holidays with pay, casual leave and timely payment of wages, but it was their considered opinion that the provisions of clause 8 would have been administratively unworkable had they been retained in the Bill and it is obvious that they had been inserted without sufficient enquiry as to the real conditions prevailing in commercial establishments.

The retention of this clause in the Bill would have hindered the successful working of what is now a considerable piece of social legislation and here again the House and Government are to be congratulated in foreseeing this and on removing the defect.

In this connection, Sir, I should like to make reference to the rather sweeping remarks by my friend Mr. Birendra Kishore Roy Chowdhury yesterday in regard to conditions prevailing in European commercial establishments.

I do not know whether the honourable member has any actual experience of the conditions of employment in European establishments, but I have no hesitation in saying that those who have such experience will agree with me that the statements made by the honourable member yesterday could only have been made through crass ignorance of his subject.

There is just one point, a small one, to which I would like to draw the Hon'ble Minister's attention and that is in relation to clause 13.

There is still some doubt as to whether after 12 months' service all employees could not demand their leave, say from 1st to 14th January of the ensuing year.

The clause as passed affords no discretion to the employer and I would suggest for the consideration of the Hon'ble Minister that this point be suitably dealt with in the rules.

The European Party supports the motion and gives the Bill its blessing.

In conclusion, I should like to congratulate the Hon'ble Minister on the smooth manner in which he has piloted the measure through the various stages in this House.

Mr. K. C. ROY CHOWDHURY: Sir, I should like to make one or two observations on the Third reading of the Bill. The honourable members congratulated one another—particularly the Hon'ble Minister as well as Mr. Humayun Kabir—on the smooth passage of the Bill which is one of the first class social legislations brought for the benefit of the small wage-earners in shops and establishments. But they forget that when this Bill is enforced, the smaller shopkeepers will have to keep a larger staff than at present, and an apprehension is gaining ground among the shop assistants that this will indirectly affect their employment, because the employers will reduce the wages of the assistants on the ground of reduction of the hours of work and paid holidays. Therefore, I would suggest to the Hon'ble Minister that he should bring in a separate legislation as soon as possible on the minimum wages after due enquiry of the standard and cost of living of shop assistants as well as industrial workers. We do know that shop assistants, specially in small shops, get very small wages, and I believe that on the plea of keeping a larger staff in order to meet the provisions of the Bill, the employers will reduce the wages of the shop assistants. The liability for the wages for paid holidays—one and half days in the week—and for casual and privilege leave will compel employers, under the provisions of this Bill, to resort to a cut in the wages of their staff and this can only be averted by a speedy legislation fixing minimum wages which exists in all progressive countries of the world.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I rise to support the motion which has been moved by the Hon'ble Minister. In doing so, I congratulate the Hon'ble Minister on having piloted the Bill so successfully and so ably. The very fact that the Bill has been introduced recently and has been passed only in the course of a few days shows that it has been drafted carefully and in the best interests of all concerned.

Sir, in view of the remarks made by the honourable members of this House, I would like to say a few words on the merits of the Bill. Firstly, I am glad to find that the term "commercial establishments" have been omitted from certain clauses. Commercial establishments would not be affected by the Bill as it has been presented before us. All the clauses of the Bill will not be operative on the commercial establishments. I think that has been a move in the right direction. It is known to the House, Sir, that the conditions of assistants in commercial establishments are different from those of the assistants in other shops. The assistants of commercial establishments do really enjoy some of the concessions that have been provided for in the Bill, whereas the shop assistants do not. So, in all fairness they should not be placed in the same category with the shop assistants. I am glad that Government have made this difference but I think it would be better if a separate Bill were brought in for dealing with the commercial establishments instead of tagging them on to this Bill. In fact, it does not look well that some provisions would be applied to commercial establishments and some would not. When the conditions are different they should be placed in a different category and there should be a different Bill altogether to deal with them. However, I am glad that there has been some attempt in that direction.

Now, Sir, another point which I wish to bring to the notice of the House is with regard to sick leave. In the original Bill, sick leave had been provided for; but in the Select Committee they have deleted the provision for sick leave and in its place they have introduced privilege leave and casual leave. The Select Committee made an attempt to introduce a provision for privilege leave for one month and casual leave for ten days. The House has reduced the period of privilege leave to 14 days though casual leave has been retained for 10 days. But to my mind, sick leave is more important and more useful than casual leave, because when one falls sick he is anxious to see that he gets something of his pay during absence for no fault of his. It is common knowledge and the fact is admitted by great scientists also that it hinders the progress towards recovery of a sick man if he has cares and anxieties during his illness. So, I think, it would be better if sick leave were granted even at the cost of casual leave. It may, of course, be pointed out that he will get privilege leave or casual leave; but that is not a practical solution. Because it is human nature that when a man sees that his privilege leave is due or his casual is due, he is tempted to take advantage of it and utilises the leave for enjoyment, or son's marriage or attending a party and so on and so forth. He never thinks that he will fall ill or that he will require any leave for sickness. The result is that his privilege leave and casual leave are over and no leave remains due to him when he falls sick. After all, it should be remembered that when a man falls sick he will require more money for expenses on medicines and doctors and if he does not get any relief by

way of sick leave or half pay leave, he will be worried. As the Bill is going to the Assembly, I would request the Hon'ble Minister to see that some provision be inserted for sick leave even at the cost of casual leave.

Now, with regard to the remark made by my honourable friend Mr. Ross, I agree with him that there should be some provision for the employer in granting the privilege leave. After all, the business will have to be conducted and if all assistants want leave at a time, I do not understand how the business can be smoothly conducted. So, there should be some provision that all should not be allowed to take leave at a time, and that the employer will have some power in granting leave. I fully agree with him that discretion of the employer should prevail in certain instances.

There is another matter which I would like to mention. My honourable friend Mr. Humayun Kabir is practically the sponsor of the Bill. He took the initiative in this matter. As a matter of fact, his Bill is still pending, but on the assurance of Government, or rather I may say, the Hon'ble Mr. Suhrawardy he did not push on with his Bill. I am glad to say that the Hon'ble Minister has kept his word and has brought forward this Bill. This required courage of conviction. We do find that sometimes Government, for the sake of false prestige and vanity, do not like to take up the cause of the non-official members; but in this case the Hon'ble Minister has taken up the cause of a non-official member and has not only brought in a Bill but got it passed too.

Sir, once more I congratulate the Hon'ble Minister and give him the credit due to him.

Mr. HUMAYUN KABIR: Mr. President, Sir, I have very great pleasure in supporting the motion which is before the House My friend Khan Bahadur Naziruddin Ahmad has complained that the number of amendments from this side of the House has been less than usual, but I think instead of complaining for that reason, it should be a matter for congratulation to all concerned in this House that in this matter there has been no difference of points of views between the different sections of the House. It is a measure of such importance and the good which it seeks to do to a very large section of the community of this country is so great that on this matter the Opposition and Government have seen eye to eye. I think also, Sir, that the statements of Khan Bahadur Naziruddin Ahmad about the Opposition were probably not so uncomplimentary as they seemed to be and perhaps his references to the Government were not so complimentary as he at times tried to make them. Behind his speech there was one burden of song and continually it was being repeated that the Government had taken the amendments of the members of the Coalition Party and brought them forward as its own amendments. I think, Sir, that was

the real burden of the song which Khan Bahadur Naziruddin Ahmad wanted to sing before the House. But, at the same time, Sir, I think it is not a matter for much regret. It does not matter very much how the amendments are brought so long as they are accepted and it is, as I said a moment ago, a matter for pleasure on all sides of the House that we have been able to agree so much on this Bill and have been able to carry through all the 29 clauses of the Bill in the course of two days. That I think, Sir, is also a matter for congratulation for the Hon'ble Minister that he was able to pilot it so ably and efficiently.

Sir, many members have been kind enough to refer to the little that I have had to do with this Bill. I hope, Sir, I may be pardoned if I take a certain amount of pride that the Bill has been taken up by Government. I am very grateful that the Government did take up the Bill and took it through so expeditiously. It was my desire at the time I introduced the Bill should have in Bengal the first social legislation of this type; but unfortunately on account of the original reluctance of the Government, this was not possible. My Bill was introduced in January, 1938, and at that time no other province in India had thought of a similar Bill. After that, the Bombay Government and the United Provinces Government had their own Bills which were very similar to that Bill; but I think the Bengal Cabinet has yet the opportunity of being the first Government in India to enforce this Bill. For, though the Bill in Bombay was passed, though the Bill in United Provinces, I believe, is passed, they have not yet been given effect to and I hope it will still be the privilege and pride of Bengal to be the first province in which such an important social legislation is carried and I hope we shall all have the pleasure of congratulating the Hon'ble Minister if he succeeds in doing this and having the Bill given effect to in Bengal before it is given effect to in any other province.

Sir, in the Bill which I had the honour to sponsor before the House, there were certain items that have been dropped. Certain others have been brought into the Government Bill. One item which was brought in is the inclusion of commercial establishments. I think it is not necessary for me to repeat the remarks which my honourable friend Mr. Laidlaw made when the Bill was first taken up for consideration in this House. That was one of the differences between the Government Bill and my Bill and that was, I suppose, one of the reasons which Government advanced for delay in this matter. It has since been dropped and to that extent I think, Sir, the delay has not been justified.

On the other hand, Sir, certain of the features in the original Bill have been dropped which I think mark a definite loss in the value and efficacy of this Bill. The question of security of tenure was attempted to be solved in the Bill which I had the honour to sponsor and Mr. Suhrawardy himself admitted yesterday that this is a matter

with which he has very great sympathy. If he really had the sympathy,—and the Bill was there and in fact was there for two years and the Government itself had this Bill for inspection for almost six or seven months,—there is no reason why a provision to that effect was not included in the Government Bill. I think there is even time now to remedy this error, for this Bill would go to another place and I hope Mr. Suhrawardy will, by introducing some amendment which will cover this point with regard to the security of tenure for employees in shops and other establishments, prove that his sympathy is real. For, I think, it cannot be gainsaid that this is one of the greatest dangers from which the employees of small establishments suffer. Very often they put the best part of their lives in such employment and then suddenly one day they are thrown out of employment.

There was one other point in my Bill—with regard to the question of age of employment and minimum wages which has been dropped. I am glad that point was touched to-day by my honourable friend Mr. K. C. Roy Chowdhury. I think, Sir, that unless there is some provision for minimum wages there may be certain hardship. It is even more imortant to secure the method of payment of wages. I have had reports —I do not know how far they are accurate, because they have not come to me in an official manner—that since the Bill was taken up in this House, a change in the method of payment has been made in many establishments in Calcutta. I think some of the European firms are also guilty. Instead of monthly payments as before the system of payment by week has been introduced, because there is a general provision that the people who are paid at monthly rates are also entitled under the general rules to notice of a month before discharge. I have also been told—again I repeat I cannot vouch for its accuracy at this moment—that in certain European firms, after this Bill was taken up in this House the system of payment by week has been brought in so that employees can be dismissed with a week's notice. Of course, in the Bill there is a saving clause. In the Bill there is a clause which says that any rights which the employees in shops and establishments have enjoyed before the introduction of this Bill—I think the period fixed is about six months or so from the 1st of January, 1940—any privileges which have been enjoyed by the employees up to that day shall not be abrogated by the passing of this Bill. This Bill marks the minimum which the State wants to guarantee to the employees. This also brings me to the remark which my honourable friend Mr. Ross was pleased to make. He did me less than justice when he said that I was fighting for the cause of the employees alone. I certainly want to fight for their rights, but I think, the Hon'ble Mr. Suhrawardy will agree with me that this Bill is as much a charter of freedom to the employer as it is to the employee. In the case of many smaller shops, not only has the employer to keep the employees in his shop but he has to stay himself for ten or twelve hours. He was himself a prisoner

under the system at present prevailing and by this measure, it will be for the first time, Sir, that the employer will be able to come out in the open and take part in social activities that make a rich human life. From that point of view, it is a measure of benefit to the employer and not merely to the employee. Sir, I have no grudge against the employers. In a good many cases, employers have actively helped me in shaping some of the clauses which had been included in the Bill and which I had the honour to sponsor in this House.

This brings me to another point in which both the employer and the employees are benefited by the fixation of weekly holidays. I may tell the House that not merely the employees but many employers also have approached me, saying that they would like that the weekly holiday should be fixed on Sunday and that the half-holiday might be left to the discretion of the employer, and also that it may be fluid. If the weekly holiday is not fixed on Sunday, employers and employees will not be able to take full advantage of the facilities offered by a general holiday; if shops are kept open on Sundays, it will harm the employers and employees in two ways: first, they will not be able to take part in social life which it is their desire to do but they will be working on a day when others are enjoying a holiday and they will have a holiday when others will be engaged in work; if there is a general holiday, as we have on Sunday, this will help them to come in more intimate contact with their relatives who are not employees or employers in shops. Sir, we have received representations that, if possible, the weekly holiday should be fixed on Sunday.

Another matter in which I have received representations from certain employers' and also employees' associations is that if the weekly holiday is not fixed on Sunday, it will give undue advantage to the large shop-keepers who have more than one shop and can arrange to have one shop closed on a Sunday and another on a Monday and in this way can carry on his business on all the days of the week whereas the smaller shop-keeper who has only one shop cannot do this. In this way, he loses a certain proportion of the customers. The Hon'ble Minister will also consider that if there are different shops owned by the same employer and if they are closed on different days, then the same man might be employed in different shops. I admit that in many of the shops this will not happen, but, after all, we have got to deal with all sorts of employers, and it is likely that certain employers having two or more shops in which different weekly holidays are observed, would employ the same person in different shops on the weekly holidays and thus deprive him of the advantage which the Bill wants to afford to him.

Then there is another point with regard to the question of sudden discharge or dismissal. Yesterday on the floor of the House it was evident that all sections of the House sympathised with the employee

who may be suddenly dismissed. In the case of ordinary dismissal, an employee will not get the sympathy and support of the members of this House, but I think in the case of sudden discharge or dismissal there should be some provision guaranteeing them some compensation for such sudden and wilful cessation of their activities, and I hope the Hon'ble Minister will examine this question again when it will be taken up for further consideration in another place.

Sir, I do not want to take more time of this House and thus stand in the way of other members who would like to speak on this motion. I would like again to congratulate the Hon'ble Minister and other members for the expeditious manner in which the Bill has been carried through this House. This Bill, however, innocent it may seem at first, will have a profound influence on the social life and habits as also on the character of the people of Bengal and in that hope, I welcome it.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, while I support the motion of the Hon'ble Minister in charge of Finance and Commerce, I should be frank to state that I am not very happy regarding the form in which the Bill is likely to go out of this House. I, of course, recognize that some benefit will accrue to the shop assistants. Although the Bill does not go as far as it might have gone, still something is certainly better than the existing unregulated condition of things in the shops.

Sir, what I regret most is that the original object to regulate the condition of work in the commercial establishments has been taken out of the Bill. While I appreciate the explanation offered in this regard by the Hon'ble Minister in charge of Commerce and Finance, I am convinced, as certainly many others in this Council are convinced, that the Bill has been largely truncated in this respect, mainly because of the opposition which the European members set up since the very introduction of the Bill. It has been asserted by my friend Mr. Ross that the working conditions in the European commercial establishments are far better than in most Indian concerns. But, as Mr. Kabir observed a little while ago, that apart from the hours of work, other conditions of service also in some of the European commercial firms and banks admit of considerable improvement. It is human nature that owners of vested interests do not themselves welcome any modification of their rights. But, Sir, during the last few years many other vested interests in this province have been adversely affected and considerably undermined through the willing or unwilling co-operation of European elements of this Legislature. I do not see, Sir, why the European members who have bowed to what they have regarded as the inevitable in other cases, are trying to fight for their own interests to the last ditch.

The Hon'ble the Commerce Minister has promised to take up the regulation of the commercial establishments in another Bill. Sir, I only hope that the Hon'ble Minister will be able to get over the opposition of the commercial vested interests and make good his promise in the near future.

With these few words, I am giving my support to the Bill, although I would have liked it to be passed in some other form.

Mr. NUR AHMED: Mr. President, Sir, I rise to support the motion for the Third reading of this Bill, and in doing so I take this opportunity of congratulating the Hon'ble Minister not on piloting this Bill in the form in which it is going to be adopted but on his tactful handling of the whole debate. From the point of view of shop-keepers, I shall make one or two observations on the main provisions of the Bill. I do not think that this Bill will prove to be a practical measure nor do I think that it will lead to efficiency. Besides, there will be a lot of difficulty in enforcing this Bill. With due deference to the Hon'ble Minister, I submit that this Bill, as it has emerged from this Council, is an unsatisfactory one from all practical points of view, and that the Hon'ble Minister has taken a big jump. At a time when the country is passing through a terrible depression in trade and commerce, I must say, knowing full well the conditions of small shops in the mufassil, that this Bill will affect, to a great extent, the harmonious working of shops and will undermine the good relationship that subsists between the shop-keeper and his assistants. There is a provision in this Bill for giving rest to the employees, and every shop-keeper is bound to allow a certain period for rest. If a shop-keeper has three assistants, what will be the fate of his shop if all the three assistants go away simultaneously? Who will look after the shop and protect the articles from theft and damage? There will be some practical difficulty in enforcing this provision of the Act. Then, there is also another provision to grant one and a half days' holiday every week to the shop assistants in the same manner as weekly holidays are given to boys in schools and colleges, although there is a great deal of difference between schools and colleges on the one side and shops on the other. What will be the net result of all this? The small shop-keepers have got small capital only, and they cannot afford to give one and a half days' holiday every week to their assistants and at the same time keep up the present level of wages.

Then, Sir, there is another fact to be remembered in connection with this measure and that is: how to provide an effective machinery for the enforcement of the provisions of this Bill. We must also remember that this Bill has got to deal with an influential class of people amongst whom it will be very difficult to enforce its provisions,

Another question is that of fourteen days' privilege leave and ten days' casual leave every year. We know that there are many shop-keepers who give more than that amount of holidays to their assistants at present, but as a result of this enactment it may happen that the employees who have been enjoying those privileges and amenities may find that they are going to lose them.

There is also another factor to be considered in connection with this Bill. Everybody knows that cordial relations generally exist between the employers and their employees, the shop-keepers and their assistants; but, I fear, taking advantage of the provisions of this Bill, that old relationship between them may disappear, and the former may frustrate the object of Government by making it impossible to be enforced.

With these words, Sir, I support the Bill but not so wholeheartedly as has been done by some of the previous speakers.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, let me once more thank the honourable members of this House for their support to this motion, and to this Bill generally, and also for the constructive criticisms with which they have favoured Government on the provisions of this Bill—criticisms which I will certainly keep in mind in framing future legislations. It is not proper for Government to steal the thunder of others, or even to partition that thunder, and hence all credit for being the first to introduce a Bill of this nature on the floor of this House is due to Mr. Humayun Kabir.

The reason, Sir, why I introduced a Government Bill on this subject was that I felt that some of the provisions which Mr. Humayun Kabir had embodied in his Bill were of a far-reaching character and might have resulted in that Bill becoming inoperative. If we produce a measure of this type—a social legislation of such far-reaching consequence we should do so, if we want to be successful, with the complete co-operation and good-will of those who will be affected by it. Now, Sir, if the employers on the one side are determined to obstruct this measure, then no amount of Government measure will bring about peace and harmony between the two contending parties, namely, employers and employees. If, as has been proclaimed by Mr. Ross and has been greatly appreciated by me, the Calcutta Trades Association, and I take it other employers similarly, welcome the provisions of this Bill, then this Bill has every chance of being worked successfully.

Mr. Humayun Kabir hopes that perhaps Bengal will be the first to put such a Bill into operation, although Bombay and the United Provinces have passed similar measures. If it is successful in Bengal, it will be due to the fact that many of the unworkable provisions of the Bombay Act and the United Provinces Act have been deleted from this Bill. I have not pretended that this is an ideal Bill in the sense of

having crystallised all the conditions of the service of shop assistants. What this Bill attempts to do is merely to lay down certain general conditions of service where they were at a considerable disadvantage and to relieve their lot as early as possible. We have still to explore many avenues, and I hope that if we continue to keep a watch on their conditions, we shall be able to bring in legislation from time to time which may be of assistance to them. One more reason why I did not bring in my own Bill at an early stage, and there was delay in this Bill,—for I may point out to Mr. Humayun Kabir that before even the introduction of his Bill, I had stated on the floor of one of the Houses (I forget now which) that I did intend to bring in legislation to regulate the hours of work,—one of the reasons why I did not bring it earlier was that I believe in creating public opinion, and I wanted public opinion to be crystallised on this matter. I realised that the shop assistants were at a great disadvantage, but I saw in them the stirrings of a new life and I felt that if I came in at that time with a Bill, it might have resulted in the disappearance of that movement. By this delay one good thing has arisen. They have formed their unions, they have formed a strong organisation, and they are now in a position to look after their interests; they will safeguard their interests, they will continue to promote their interests, and from time to time suggest measures which may better their conditions. I welcome the formation of such an association of shop assistants, and I certainly look with interest and sympathy at any efforts that they may continue to make for the amelioration of their service conditions.

Sir, perhaps the honourable members would like me to refer to some specific remarks which they have made regarding the clauses of this Bill. Mr. Ross has spoken about clause 13 and observed that, as drafted, it does not appear to give any discretion to the employer within which time he must grant leave or he may grant leave, and he has suggested that we should provide for that discretion in the rules. As at present advised, I think that we will do so inasmuch as it is clear that it will not be possible for an employer on demand to give the necessary privilege leave. It has been suggested that if leave is demanded by the employee, then the employer should within six months of the expiry of twelve months' service give that leave. Of course, if the employee wishes to accumulate that leave, he will be permitted to do so.

Sir, the Raja Bahadur of Nashipur has said that the deletion of the clause regarding sick leave is against the interests of the employees. I do not think so, Sir. I think that the change of sick leave for privilege leave and casual leave is a decided improvement. Everyone does not fall sick and hence the mere provision of sick leave on half pay would not have benefited an employee, for he could not avail himself of it except on a medical certificate procured sometimes through unfair means. Hence sick leave on half pay on medical certificate is not better

than privilege leave, for half the period on full pay of which he can always take advantage. Added to that ten days' casual leave is a further improvement which, I think, will benefit the employee much more than sick leave. Again, privilege leave and casual leave are privileges which are compulsory privileges for all employees whereas sick leave can only be taken advantage of by those who fall sick.

Now, Sir, in order to deal with wrongful dismissal and victimisation. well-considered clauses are necessary. For instance, if a person is dismissed for specified causes and justifiable reasons, then he cannot have any rights. To draft those specified causes require some time and consideration and agreement between the parties who will be affected. Again, I think that disputes on these points will create difficulties and cast a heavy burden on the Courts. If we provide for such contingencies, we may also have to set up tribunals similar to the tribunals provided for in the Trade Disputes Act.

Sir, Mr. Humayun Kabir has said that he has received representations that the weekly holiday should be fixed on Sunday, although so far as the half day is concerned it may be left to the discretion of the shop-keeper. Sir, I received representations of this type and I threw out a feeler. The feeler was in the shape of an attempt on my part to introduce an ordinance making Sunday a compulsory holiday and I asked for views. I did not wish to bring that ordinance in unless all parties agreed. because I hold that Government should not rule by ordinances if they can be avoided. But the replies which I received in that connection were so varied in nature and there was so much opposition that I thought it inadvisable to make Sunday-closing compulsory. I think personally that Sunday-closing would be an improvement. But I have been informed that the conditions of business in Calcutta are such that Sunday-closing would cause irreparable damage to the shop-keeper, that the habits of our people are such that it is on Sundays that they do most of their shopping, that they take their ladies out and that it is a gala day for some of them and a recreation which they cannot afford to give up. Sir, I hope that the habits of our people will change. I am looking forward to an agreement within the near future between shops situated in particular regions assisted by, if I may say, pressure from their employees. For instance, we may have in the New Market and Chandni all shops closing on Sundays. Bhowanipur and Kalighat might choose another day. There may be various days for various regions. I would like to leave it for the time being to agreement amongst the shop-keepers and if they can all agree to close on Sundays, nobody will welcome it more than myself. After we have had an opportunity of seeing how this provision works, we may consult this House once more for the purpose of taking further steps in this connection.

(At this stage, the Hon'ble President left the Chamber and the Deputy President occupied the Chair.)

Regarding the half-day, that also has been left to the discretion of the shop-keepers, although the representation that was made to me was to the effect that we should declare the morning of Friday as a half-day. I am glad to be able to say that this representation was made to me not merely by Muslim shop-keepers and shop assistants but also by their confreres, the Hindu shop-keepers and their shop assistants. The reason that they advanced was that most of the Muslim shops do close on Friday mornings, that the general public know that many of the shops are closed, and that is the reason why business is dull as a rule on Friday mornings, and if they close their shops on Friday mornings it would not damage anyone. At the same time, there are some shops that close on Saturday afternoons. I did not want to interfere with the custom. I felt also that if we compulsorily close on Friday mornings, it would give a further handle to some of my friends on the other side—not on the other side—but to those who want to get some *kudos* in the Hindu community to say that once more we were introducing legislation for the benefit of the Muslims. For this reason, I thought I should leave it to the good sense of the shop-keepers and their shop assistants to fix whatever day they liked. Sir, I think that deletion of the provision for commercial establishments only in regard to hours is an improvement for the time being, as we had not considered that matter, and had we pressed it—I call Mr. B. K. Roy Chowdhury's attention to it, although he is not here at present—it is quite possible that this Bill would have had the same fate as the Bombay Act and the United Provinces Act, viz., that we would not have been able to bring it into operation. If by the deletion of that clause we have secured the goodwill of all the parties, there is hope for this Bill.

Sir, I need not proceed with the matter further. I hope that this Bill will be of real service to our people, and will help us to organise our existence on better lines.

Mr. DEPUTY PRESIDENT: The question before the House is: that the Bengal Shops and Establishments Bill, 1939, as settled in the Council, be passed.

(The motion was agreed to.)

Order, order. The Council stands adjourned till 2-15 p.m. on Friday, the 16th August.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 16th August, 1940.

Members Absent:

The following members were absent from the meeting held on the 14th August, 1940:—

(1) Mr. Kader Baksh.

(2) Rai Bahadur Keshab Chandra Banerji.

(3) Mr. Narendra Chandra Datta.

(4) Mr. Kamini Kumar Dutta.

(5) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(6) Mr. Mohamed Hossain.

(7) Alhaj Khan Bahadur Shaikh Muhammad Jan.

(8) Maulana Muhammad Akram Khan.

(9) Dr. Radha Kumud Mookerji.

(10) Rai Bahadur Radhica Bhusan Roy.

B. G. Press—1940-41—7351A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 16th August, 1940, at 2-15 p.m. being the twelfth day of the Second Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA), was in the Chair.

QUESTIONS AND ANSWERS

Outstanding Questions from previous Session and Answers thereto.

Holidays in the Office of the Bengali Translator.

98. Mr. SACHINDRA NARAYAN SANYAL: Will the Hon'ble Minister in charge of the Home Department kindly state—

(*a*) whether the Office of the Bengali Translator has been kept open on all Sundays and other holidays since the outbreak of the war;

(*b*) whether a number of assistants and clerks of this office have been called upon to attend and work regularly on all these Sundays and holidays;

(*c*) whether it is a fact that some of the assistants and clerks in this office can look forward to a day of rest only after every two weeks;

(*d*) whether it is a fact that even the ammunition factories in Bengal observe Sundays as closed holidays;

(*e*) whether the four days of the Durga Puja holidays, namely, 19th, 20th, 21st and 22nd October last, were observed as closed holidays in the ammunition factories in Bengal and whether the Bengali Translator's Office was kept open even on those days;

(*f*) whether any allowance or honorarium has been granted to those assistants and clerks in Bengali Translator's Office who have been attending office on Sundays and other holidays since the outbreak of the war;

(*g*) whether some allowance or honorarium had been granted to these assistants and clerks or any other relief granted to them in some way; and

(*h*) whether there is any other department or office in the Bengal Secretariat the clerks or assistants of which have been called upon to attend office on all Sundays and other holidays since the outbreak of the war?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) Yes.

(*b*) Certain particular assistants in the Bengali Translator's Office attended according to the roster for emergent work.

(*c*), (*f*) to (*h*) No.

(*d*) I have no information with regard to the ammunition factories.

(*e*) Particular assistants in the Bengali Translator's Office attended according to the roster for emergent work.

Mr. SACHINDRA NARAYAN SANYAL: Arising out of answer to (*b*), what is the total number of these particular assistants?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the total number of those who have to attend office on Sundays and other holidays, is, I believe, about 16.

Mr. SACHINDRA NARAYAN SANYAL: Will the Hon'ble Minister be pleased to state whether typists, stenographers and clerks have to attend?

The Hon'ble Khwaja Sir NAZIMUDDIN: One stenographer, one typist and one clerk; three upper grade assistants of the Bengali section, one assistant of the Hindi-Urdu section.

Mr. SACHINDRA NARAYAN SANYAL: Will the Hon'ble Minister be pleased to state whether all these assistants and clerks have to attend every Sunday and holiday, or whether they have to attend by groups? If they have to attend by groups, into how many groups have they been formed and whether——

Mr. PRESIDENT: Please put your questions one after another.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the Bengali Translator's office has at present a total strength of 23 excluding menials. Out of this staff, 7 hands particularly belonging to the Lower Division of the Bengali Section, have not been usually called upon to attend office on Sundays and other holidays on roster duty. As regards the remaining 16 members, an attempt has been made to grant them relief as far as practicable consistently with the rule in the

Bengali Supplementary Press Rules Instructions, 1939. It will appear from what has been stated above that most of the members forming into groups can in the circumstances be permitted to get one Sunday off after 13 days, provided there are no intervening holidays.

Mr. SACHINDRA NARAYAN SANYAL: Arising out of answer to question (*e*), does not the Hon'ble Minister realise that it is very hard upon Hindus to have to attend office during the four days of the Durga Pooja holidays which is the most important festival of Hindus in Bengal?

The Hon'ble Khwaja Sir NAZIMUDDIN: As far as possible, attempts are made to give relief to officers during these religious festivals, but sometimes it becomes unavoidable. For instance, Hindu policemen have got to be on duty during Durga Pooja holidays, and Muslim policemen have got to be on duty on Id holidays.

Mr. SACHINDRA NARAYAN SANYAL: Arising out of answers to questions (*f*) and (*g*), will the Hon'ble Minister be pleased to state why no honorarium or allowance has been paid to these particular assistants, clerks, etc.?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I am not responsible for (*d*). The honourable member ought to understand that the ammunition factories are not under the Government of Bengal. As regards (*f*), this is usual in other offices. Sometimes when there is pressure of work this is done, and if we give any honorarium for this office, then in other offices similar honorarium will have to be given. Therefore, it has not been given.

Mr. SACHINDRA NARAYAN SANYAL: Will the Hon'ble Minister be pleased to state whether the assistants of the Defence Section of the Home Department were granted honoraria for war emergency work? If so, on how many Sundays have they attended office?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice. (Laughter from Congress Benches.) I do not see any reason for the honourable members' laughter, for the question was not there. I cannot anticipate what the members are going to ask.

Mr. RANAJIT PAL CHAUDHURI: Will the Hon'ble Minister consider giving respective holidays to respective people; for instance, if it is a Hindu holiday the Muhammadans may be requisitioned, and if it is a Muhammadan holiday Hindus may be requisitioned.

The Hon'ble Khwaja Sir NAZIMUDDIN: *I hope this will be possible when we have fifty-fifty in the services.*

Mr. HUMAYUN KABIR: Will the Hon'ble Minister consider the possibility of giving some extra payment to persons who have to attend on Sundays and other holidays?

The Hon'ble Khwaja Sir NAZIMUDDIN: In many of the departments, especially the Home Department, officers do have to attend as a rule on Sundays and holidays, and we do not like to start the practice that where for a few hours a man has attended, he should be given extra remuneration.

Mr. LALIT CHANDRA DAS: Arising out of answer to (*d*), will the Hon'ble Minister attempt to ascertain whether ammunition factories in Bengal observe every Sunday as closed holiday?

The Hon'ble Khwaja Sir NAZIMUDDIN: We are not in that fortunate position as the M.L.C.'s are. We are told to mind our own business if we enquire into other people's affairs.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister consider that these persons who are engaged in roster work are granted Pooja holidays that are coming?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, Government try as far as possible to see that they get holidays during the Durga Pooja holidays.

Nomination to the Upper House.

99. Mr. NARESH NATH MOOKERJI: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that at a meeting of the Coalition Party held for the selection of the Party's candidates for contesting indirect elections to the Bengal Legislative Council, the Hon'ble Chief Minister had given an assurance to the members of the Coalition Party belonging to the Scheduled Castes that he would secure representation of the Scheduled Castes in the Upper House by means of nomination of a member of the Scheduled Castes to the Bengal Legislative Council?

(*b*) Has the Hon'ble the Chief Minister the right to nominate a member to the Bengal Legislative Council?

(*c*) Is it not a fact that under the present Constitution the Governor alone is empowered to nominate members to the Provincial Upper House in the exercise of his discretion?

(*d*) If so, does not any attempt on the part of the Hon'ble the Chief Minister to secure the nomination of any individual to the Bengal Legislative Council amount to interference with the Governor's discretion?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) The proceedings of the meeting of the Coalition Party are treated as confidential.

(*b*) No; nor does he claim such a right.

(*c*) Yes.

(*d*) Does not arise.

Mr. HUMAYUN KABIR: Arising out of answer to (*a*), was the word "treated" used deliberately?

The Hon'ble Khwaja Sir NAZIMUDDIN: As a matter of fact, the alternative answer should have been that Government have got no official information as to what takes place at the Coalition Party meetings.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: With reference to answer (*c*), will the Hon'ble Minister please state if the nomination was done on the recommendation of the Chief Minister, or the recommendation of the Chief Minister was called for?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is entirely a matter for His Excellency. We have got no say in the matter. I would refer the honourable member to the relevant section of the Government of India Act.

Questions tabled for the Current Session

Collection of Agricultural Loans.

69. Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) the total amount of agricultural loans advanced to agriculturists in the districts of Bankura and Midnapore in 1935-36, 1936-37, 1937-38, 1938-39 and 1939-40, year by year.

(*b*) the amounts of collection, year by year;

(*c*) the number of certificates issued for realisation of loans in each year;

(*d*) the amounts of dues, principal and interest outstanding on the 1st April, each year; and

(*e*) the number of certificate cases pending on the 1st July, 1940?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy):

	Midnapore.	Bankura.
	Rs.	Rs.
(a) 1935-36	20,000	2,55,100
1936-37	83,000	4,90,000
1937-38	3,000	..
1938-39	10,194	9,837
1939-40	2,88,500	3,97,842

	Midnapore.		Bankura.	
	Principal.	Interest.	Principal.	Interest.
	Rs.	Rs.	Rs.	Rs.
(b) 1935-36 ..	54,300	4,294	7,076	697
1936-37 ..	76,472	7,555	3,58,247	30,016
1937-38 ..	43,954	3,545	2,57,891	19,242
1938-39 ..	19,146	1,187	55,505	6,260
1939-40 ..	1,03,457	7,614	1,50,084	15,629

	Midnapore.	Bankura.
	Rs.	Rs.
(c) 1935-36	4	..
1936-37	3	..
1937-38	2	55
1938-39	3	2,342
1939-40	5	..

	Midnapore.		Bankura.	
	Principal.	Interest.	Principal.	Interest.
	Rs.	Rs.	Rs.	Rs.
(d) 1935-36 ..	86,294	1,051	27,192	163
1936-37 ..	51,954	2,597	2,75,216	7,288
1937-38 ..	58,522	1,233	4,06,969	7,554
1938-39 ..	17,568	934	1,49,060	6,719
1939-40 ..	8,616	269	1,03,392	4,103

(e) Midnapore 4
Bankura 1,496

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state with reference to answer (*c*), why in the year 1938-39, 2,342 certificates were issued in one year?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Evidently, there were outstanding arrears and the collection in the previous year was not good and the amount was going to be time-barred. So, I think certificates had to be issued.

Mr. HUMAYUN KABIR: With reference to (*b*), will the Hon'ble Minister be pleased to state if it is not a fact that the collections in the year 1937-38 were quite good compared to the year 1938-39?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: In any case, I may state that Government have suggested that these certificates should not be executed and those certificates which have been issued should be kept pending, because Government disapprove of the issue of so many certificates at a time.

Short-term loan to the agriculturists.

70. **Mr. NUR AHMED:** (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state if the Government of Bengal gave Rs.13½ lakhs to the Provincial Co-operative Bank of Bengal during last year and a sum of Rs.60 lakhs this year for distribution as short-term loans for the relief of the agriculturists?

(*b*) If so, how are these short-term loans being distributed and through what agencies? Have the Government given any definite directions as regards the distribution of these sums and also to ensure that only the real and *bona fide* needy agriculturists get loans from these sums?

(*c*) Is it a fact that there are no agricultural credit societies in some areas of Bengal? If so, how would the loan be given in such areas?

(*d*) How many land mortgage banks have been started in Bengal and where? How many land mortgage banks are going to be opened in the near future in Bengal? Is it a fact that a definite proposal has been made to start a land mortgage bank at Chittagong? If so, why has it not been started so long and when is it expected to be opened?

MINISTER in charge of the CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) Last year Rs. 13½ lakhs were given and this year Rs. 55 lakhs have been sanctioned.

(*b*) Central Banks and village societies. Yes.

(*c*) Agricultural Credit Societies are being formed in areas where they did not exist before and where there is a genuine demand for such loans and the people agree to form such societies.

The Revenue Department of Government has sanctioned agricultural loans in areas where such societies have not yet been formed.

(*d*) Five—at Comilla, Mymensingh, Jessore, Pabna and Birbhum.

The question of starting more land mortgage banks is receiving the consideration of Government.

Rest of the question does not arise.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to (*c*), will the Hon'ble Minister be pleased to state if he is aware that the co-operative societies have so far covered up till now only 6 per cent. of the agricultural families of Bengal?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: We are trying to enlarge the movement as far as possible consistent with soundness of the policy.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Does the Hon'ble Minister think that it will be enough if 6 per cent. of the agricultural families is helped with credit facilities?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I submit, Sir, that is a matter of opinion.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: It is not a matter of opinion. Is it not a fact that the Hon'ble Minister in answer to (*c*) said that agricultural credit societies are being formed in areas where they did not exist and is he aware that co-operative credit societies have become very unpopular in most parts of Bengal?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: This is again a matter of opinion.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not a fact that for this reason people do not come forward to become members of the co-operative societies?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: On the other hand, we have got about 2 lakhs of new members for these 7,000 societies.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state what is the number of society members in Bengal?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It is very difficult to say offhand, but so far as I recollect the total number will be about 6 or 7 lakhs.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: The total number of agricultural population is 65 lakhs.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: That may be so; I am not quite sure about the exact figure.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Will the Hon'ble Minister be pleased to state if it is not a fact that the co-operative societies are doing the greatest amount of good to the greatest number of people?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: We are trying to serve the people as far as possible.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to (*d*), will the Hon'ble Minister be pleased to state the rate of interest in the land mortgage banks?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am sorry, I have not got the figure. I must ask for notice.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if, since the passing of the Money-Lenders Bill, the utility of land mortgage banks has ceased?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: On the contrary, I think there is very great demand for land mortgage banks. The question itself shows this.

Mr. NAZIRUDDIN AHMAD: Since the Co-operative Department is functioning very well, is it necessary to introduce the new Co-operative Societies Bill?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It is absolutely necessary and the honourable member will see its necessity when it comes up for discussion in about a week's time in the House.

Adjournment Motion.

Mr. PRESIDENT: I have received notice of the following motion for adjournment from Mr. Humayun Kabir:—

"That the business of the House do stand adjourned to discuss a matter of urgent and definite public importance, viz., the unsatisfactory nature of the answer to question No. 63 of the current session and the failure of the Government revealed therein to take adequate steps for the alleviation of distress on account of failure of crops."

Mr. HUMAYUN KABIR: Will you please explain how it is a matter of urgent and definite public importance?

Mr. HUMAYUN KABIR: Sir, I would recall to the memory of the members of this House the question out of which this adjournment motion has arisen——

Mr. PRESIDENT: Order, order. At this stage you are only to address the Chair and state how it is an urgent and definite matter of public importance. If the Chair is convinced of its urgency, then you will be allowed to address the House on its merits.

Mr. HUMAYUN KABIR: Sir, you will remember the question to which this adjournment motion refers. In the answer to that question it was said that even though crops had failed to the extent of 10 annas in the district of Faridpur, Government have not yet thought it necessary to take any steps with a view to alleviating distress, because they are expecting that the after-crops will be better. It is a matter of common knowledge that in our country the cultivators are living almost on the verge of starvation and therefore any failure of crop, even to a slight extent, is bound to have a serious effect on them. I might not have moved an adjournment motion of this type if this year, according to the crop reports that are available, crops had not been found to have failed in almost every part of Bengal. In most cases due to the shortage of rain practically the whole of Northern and Eastern Bengal are fearing shortage of food. The answer given by Government to the question referred to was that they will consider the matter when the situation demands—when things come to a crisis. But, Sir, my submission is that then there will be no time for remedying the state of affairs which may arise. If the prospects of crops are bad, Government should realise—particularly in view of the fact that we have a Government which is responsible to the people—that it is necessary for them to take care in time and take steps so that this undesirable situation may not arise over a large part of Bengal. So,

Sir, that it is important nobody will question. That it is definite, nobody will question because, it is a matter of definite concern to the Government of Bengal that there should be no scarcity in the province and that they have a definite responsibility in the matter. The only question that may be raised is with regard to the question of urgency. With regard to that my submission is, as I have stated a moment ago, that because in our country the people have no reserves to fall back upon if no steps are taken now while there is yet time, the condition of the people will be such as to baffle the good intentions of the Government——

Mr. PRESIDENT: When was this question answered?

Mr. HUMAYUN KABIR: On Tuesday, the 13th August.

Mr. PRESIDENT: Why did you not move your motion at the first available opportunity,—the very next day which was a sitting day of the Council?

Mr. HUMAYUN KABIR: At first there was an idea that the House would not meet on the next day, but subsequently it was decided by one of your rulings, when it was pointed out that the Bengal Shops and Establishments Bill could not be passed on the same day that the House had discussed the Bill, that there will be a sitting on the next day, and so it escaped my notice.

Mr. PRESIDENT: I understand that the honourable member was present in the Council both on the 13th and the 14th August.

I hold this motion out of order on various grounds. Firstly, on the ground that it was not moved on the first available day; secondly, that this motion is neither definite nor urgent. In this connection, I may inform the House that the rules have got to be interpreted as regards urgency and definiteness in a technical manner. So far as the question of definiteness is concerned, I would refer the honourable member to the decision given in the British Parliament on an adjournment motion which Viscount Curzon wanted to move for the purpose of discussing a definite matter of urgent public importance, namely, "the failure of the Government to provide adequate facilities for the protection and removal of disbanded members of the Royal Irish Constabulary and their families to England." In ruling that motion out of order, Mr. Speaker observed, "I think the Noble Lord must submit a more definite motion than that." Similarly, I hold that this motion is too vague and not definite in the sense in which the word is used in our Rules, because the motion does not state as to

why the answer of the Government should be considered as unsatisfactory. I find that in answer to a supplementary question the Hon'ble Minister has said that "one cannot yet definitely assert that the crop has failed altogether or even partially."

There may be a misapprehension in the minds of some of the members that the unsatisfactory answer itself is a sufficient ground for a motion for adjournment. I quote here from a decision taken in the Central Legislative Assembly:—

"There seems to be an impression in the minds of certain honourable members at any rate that the mere fact that the answer to a question is unsatisfactory is in itself a sufficient ground to make a motion for adjournment on that point *ipso facto* in order. The Chair should distinctly rule that by itself the answer to a question is not a sufficient ground for moving for a motion for the adjournment of the House. In deciding the admissibility of such a motion, the Chair has always to take into consideration the subject-matter with which the question is connected and if the subject-matter itself is in violation of the rules and standing orders relating to the motion for adjournment, no manner of unsatisfactory answer would make such a motion in order."

This ruling is reported on page 554, in the Central Legislative Assembly Report of the 31st August, 1933.

On these various grounds, I hold this motion to be not in order.

Motion for presenting Address to the Governor.

Mr. PRESIDENT: I shall now take up the motion under rule 112 of the Bengal Legislative Council Procedure Rules, tabled by Mr. Nur Ahmed.

Mr. NUR AHMED: Mr. President, Sir, this Council is of opinion that an address be presented to His Excellency the Governor of Bengal, through the Hon'ble President of the Bengal Legislative Council, with a request to His Excellency to make a strong representation to His Excellency the Viceroy of India and through him to His Majesty's Government in England, urging on them the need for the abolition of the distinction between martial and non-martial classes in India; for emphasising the immediate necessity of training and employing Indian officers to the fullest extent for the regular Air Forces in India; for giving unrestricted training to Indians to serve as R.A.F. pilots and as officers in the King's Commission; for Indianising the Indian Navy and also for extending all facilities and help to Indians in defence of India as is given to all other dominions of the British Commonwealth.

Sir, at this hour, I think, I should not take much time of the House to stress on the necessity, the utility and the importance of such a motion as this. These questions have been debated upon in this House very recently and also in other sessions. The importance of a motion like this has been further increased by the recent speech of the Secretary of State for India who has said that India must be prepared to defend Suez. The defence of Suez has become all the more important when the Italian forces are on their march towards the Gulf of Aden. So, I do not think I should take much time of the House in explaining the importance of the resolution. Sir, since the close of the last World War, Indian public opinion has been definitely advancing towards a goal, viz., responsibility in the matter of military defence and military policy of the Government of India. The Director of Public Information in his report on the Moral and Material Progress of India remarked: "In place of the old vague aspirations, the educated classes in India now put forward two concrete demands of a definite character. In the first place, they ask for the Indianisation of the King's commissioned ranks of the regular army. Secondly, for the expansion of the facilities which already exist for training in the Indian Territorial Force."

The Skeen Committee appointed in 1927 made the following among other important suggestions in their report—Indianisation of 50 per cent. of the total King's Commission before 1952 and opening of a military college in India before 1932. But unfortunately the suggestions of this Committee were not accepted by the Government of India. The Defence Sub-Committee of the Round Table Conference observed that, "The political principle upon which we have expressed our opinion with regard to defence is that India should be in a position to take over her defence as soon as possible." With that end in view they passed the following resolution:—

"This Sub-Committee consider that the defence of India ought to an increasing extent be the concern of the Indian Government alone. In order to give effect to this policy, a training college should be established in India at the earliest possible moment in order to train candidates for the Commission in all armies of the Indian Defence Forces."

According to the suggestion of the Sub-Committee, the Government of India appointed an Expert Committee presided over by the then Commander-in-Chief, Sir Phillip Chetwood, and that Committee also reported regarding Indianisation of all Armed Defence Forces, King's Regular Forces; but up to this time nothing tangible has been done to give Indians training and to afford all sorts of facilities for Indians.

Sir, this was not so 150 years ago. Sir Malcolm Setony says, "It interesting to note that the earlier Sepoy battalions were commanded their own Indian officers, and though Lord Clive added British

officers and men to the Indian battalions, still Indian officers commanded the Sepoy battalions." It is a strange irony of fate that the very Indians, who some 150 years ago commanded not only exclusively Indian Regiment but Indian Regiment consisting of Indian and European soldiers, to-day are not fit to command even Indian soldiers. Sir, I have emphasised in my resolution the removal of the distinction between martial and non-martial races. Unfortunately, we Bengalis are now dubbed as non-martial. When the British took over charge, there was no such distinction. It may be said that for their self-interest, for safeguarding their interest, they have shut the door to the Mussalmans. The Mussalmans then manned the Indian Army. Sir, the very Bengalis who have created wonders and have proved their valour, have thus been shut out from the Army. Is there any soul who can now maintain that Bengalis cannot prove their valour, cannot prove their merits, cannot prove their worth in the Army also? Sir, Bengalis are the largest in India and are admittedly superior in intellect and in other respects, and there is no reason why they should be shut out from the Army.

The Second part of my resolution is with regard to the training and employing of Indian officers for all regular air forces in India. It is very unfortunate that though a large number of Indians are now being selected for training in the air force, from the recent speech of the Sectary of State for India, it appears that the R.A.F. has not been opened to Indian officers. I may cite one instance of the enthusiasm of the Indians for serving in the air force. Sir, applications were invited for training of pilots in the Indian Air Force. Eighteen thousand applications were received and out of these four thousand were considered well-qualified in all respects. This shows the enthusiasm for this sort of training but unfortunately, still the Royal Air Force is barred to the Indians. So, I have purposely included that also.

As regards Commission in the King's regular army, there are altogether 4,000 commissioned officers—according to some 6,000—of which 2,800 are King's Commission; but there are very few Indians in the King's Commission. For the Indians a special Commission, that is, the Viceroy's Commission, has been created, which is inferior to that of the King's Royal Commission. If we want to have all the commissions Indianised, we would want more men for filling up the posts. The Indians will require training for that. There is at present only the Royal Military College at Dehra Dun which will take about 50 years or more to have the Indians trained for all the commissions.

As regards the Navy, it is said that India has got the largest sea-coast which will require a very efficient and expansive navy to protect from external aggression. The number of Indian students selected for

training for the Navy is very meagre. It is necessary that more Indians should be trained and that the Indian Navy should be Indianised.

Sir, I need not take more time of the House. With these few words, I commend my motion to the House for acceptance.

Mr. PRESIDENT: Motion moved: that this Council is of opinion that an address be presented to His Excellency the Governor of Bengal, through the Hon'ble President of the Bengal Legislative Council with a request to His Excellency to make a strong representation to His Excellency the Viceroy of India and through him to His Majesty's Government in England, urging on them the need for the abolition of the distinction between martial and non-martial classes in India; for emphasising the immediate necessity of training and employing Indian officers to the fullest extent for the regular Air Forces of India; for giving unrestricted training to Indians to serve as R.A.F. pilots and as officers in the King's Commission; for Indianising the Indian Navy and also for extending all facilities and help to Indians in defence of India as is given to all other Dominions of the British Commonwealth.

Mr. LALIT CHANDRA DAS: Sir, to this I have an amendment. If you will permit me to move, I will do so.

Mr. PRESIDENT: I received notice of an amendment from Mr. Das covering three pages at 2 p.m. to-day. After much consideration, I have decided not to accept such short-notice amendments in future. I rule it out of order.

Mr. HUMAYUN KABIR: Mr. President, Sir, I believe that this resolution will be agreeable to members on all sides of the House. In some respects, it is very similar to a resolution which this Council passed on an earlier date this very session, and that resolution was passed unanimously. I rise to support this motion in order to emphasise only one or two aspects of the problems which have been stated by my honourable friend Mr. Nur Ahmed. The first is with regard to the distinction between martial and non-martial classes in India. This, Sir, as you know, is absolutely an artificial and unjustified distinction, a distinction which we have heard about only since the year 1857. It is common knowledge to anyone who has studied Indian history that before the year 1857, these non-martial races in many cases helped the British to acquire control over territories which were occupied by the martial races and, therefore, Sir, if before 1857, in very many cases the so-called non-martial races were soldiers at least as competent as the martial races of India, this distinction is absolutely unjustified. Again, Sir, from the history of India we find that this distinction has never been recognised in any earlier period. At

different times there have been different powers in different parts of India. Sometimes we have had a hegemony from the Gangetic plains, sometimes a hegemony which started from the plains of the Indus, and sometimes even a hegemony which started from the south. In different areas people have arisen and have given evidence of their martial prowess. Therefore, this distinction which is absolutely an artificial creation and which to-day seems to be going under the stress of events, should go immediately, and the sooner it goes the better for all concerned. Recently I believe that some recognition of the unjustifiability and arbitrary character of the distinction between martial and non-martial races has been made in a notification which says that for the recruitment of one lakh of soldiers for the Indian Army this distinction would not be made. But, unfortunately, Sir, even though the distinction is professed to have been given up, it has not actually been given up in practice; even to-day there is no attempt to recruit for the Army on a large scale in those provinces which for the last sixty or seventy years have been dubbed as non-martial.

Then, there is the question of having a regular air force for India, and here I shall repeat what the Hon'ble Minister told us the other day. He had on very good authority from persons who are connected with the Army and the Air Forces that the recruits from this province had proved themselves very capable and that some of them had proved themselves to be very good pilots. Therefore, there is no reason why they should not be taken in larger numbers when they appear to possess all the capabilities and qualifications which are necessary for skilled air pilots.

Then, with regard to the Indianising of the Indian Navy, this also is being recognised, though very belatedly. That the Bengalis are a maritime race is a fact which cannot be disputed. Even to-day there is hardly any merchants vessel or ship which can sail on the seas without its complement of Indian sailors. The *khalasis* hailing from Chittagong, Tippera, Noakhali, and Barisal are even to-day an indispensable element of the Indian Navy and the mercantile marine sailing all over the world. There is no reason, Sir, why with such fine material we should not have our own sailors and officers in the Indian Navy—I am sorry, Sir, we have no Navy at all, there is no such thing as Indian Navy—but there is evidence to show from Indian history that till very recently India had a Navy of its own and Indian sailors were as competent as sailors of other countries, and there is evidence also that there was a flourishing ship-building industry in this province. Therefore, this resolution only emphasises certain facts which are recognised on all sides of the House to-day.

Sir, I hope this resolution will be carried by this House without any difference of opinion, and I have confidence that the Government of Bengal and also the Hon'ble the Home Minister will not merely forward

our recommendation as a formal matter—I am sorry, Sir, for my mistake, because it will have to be sent through you—I hope you, Sir, will exert all your efforts in requesting His Excellency to make a strong representation on our behalf, as suggested in this resolution.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, this is one of those subjects for which the Government of Bengal are not responsible. So, all we can do is to forward the report of the debate to the Government of India. But before sitting down I may give some information to the members of this House—information which is not official but information which I have got from newspapers—and it is that the difference between martial and non-martial race has been withdrawn as far as recruitment is concerned. I read that in the paper somewhere.

I have heard what the hon'ble member from Faridpur has said about the *bhils*. He said some unkind words about the *bhil* areas of Faridpur. But the fact remains that so far as the air force is concerned, there is no prejudice against Bengalis, and Bengalis, as a matter of fact, are being recruited in large number now——(Mr. LALIT CHANDRA DAS: How many?) I have not got the figures; but quite a good number has been recruited recently—the ex-captain of the Muhammadan Sporting, Mr. Abbas, has got a commission, and he and others have gone for training. I know definitely that the Government of India are trying to take as many Indians and as many Bengalis as are found suitable, but the difficulty about increasing the number of air-pilot is that for every pilot that has to be trained it is necessary to have four other men as technicians, as assistants, because they are essential for every bombing aeroplane. At the present moment, both air-pilots and technicians are being recruited in India.

There is one other point, Sir, to which I would like to draw the attention of the honourable members and that is about the Indian Navy. To begin with, in this House and in other places we are always asking that Bengalis should be recruited to the Army, Navy and Air Force; but as far as Bengalis are concerned, they are not taking advantage of the facilities. I may point out that in the Dufferin Training School where a certain number of Indian boys are being trained and where recruitment is made for the Indian Navy and Mercantile Navy, the number of boys going from Bengal is very few—as a matter of fact, one or two in a year. So, the number of Bengali boys going there is negligible, whereas boys from the Punjab are going there in large numbers for training. I have seen a film of the Indian Navy—a private show—and there I found that recruitment is being made mostly from among the Punjabis. Although Bengalis are born sailors which everybody knows, yet they do not come forward and join

the Dufferin School, whereas the Punjabis are going there for training. The Bengalis do not take any interest in the matter——

Mr. HUMAYUN KABIR: Are there recruitment centres in Bengal?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, but there are recruiting centres in Bombay. When Punjabis are going there from the Punjab, there is no reason why Bengalis should not go there also. Then, again, take for instance the Military College at Dehra Dun: the number of Bengalis going there for military training is very few. Now, Sir, if there are training centres which are open to men of all provinces, it is our duty to see that our boys go there and get admitted——

Mr. LALIT CHANDRA DAS: Poor men cannot afford to go there.

The Hon'ble Khwaja Sir NAZIMUDDIN: You cannot have both ways. If you want to have Bengali officers in the Army, you must send boys who will be able to pay the expenses. Take the case of Dufferin School. The Government of Bengal are prepared to give scholarships provided more boys go there. This is a question of making the boys go there and of the parents taking interest in the matter.

I would particularly draw the attention of the honourable members and through them of the general public to the facilities that are being granted by the Dufferin Training School and the Indian Navy where Bengalis could go in large numbers and obtain admission in both these places for being trained.

Mr. PRESIDENT: The question before the House is the motion of Mr. Nur Ahmed: that this Council is of opinion that an address be presented to His Excellency the Governor of Bengal, through the Hon'ble President of the Bengal Legislative Council, with a request to His Excellency to make a strong representation to His Excellency the Viceroy of India and through him to His Majesty's Government in England, urging on them the need for the abolition of the distinction between martial and non-martial classes in India; for emphasising the immediate necessity of training and employing Indian officers to the fullest extent for all the regular Air Forces of India; for giving unregistered training to Indians to serve as R. A. F. pilots and as officers in the King's Commission and also for Indianising the Indian Navy and extending all facilities and help to Indians in defence of India as is given to all other Dominions of the British Commonwealth.

(The motion was agreed to.)

NON-OFFICIAL RESOLUTIONS

Mr. PRESIDENT: The House will now resume discussion on the resolution of Mr. Birendra Kishore Roy Chowdhury: that this Council is of opinion that during the period of war, no official Bill evoking any communal or economic controversy should be introduced in either House of the Legislature.

Maulvi ABUL QUASEM: Mr. President, Sir, this resolution virtually asks that Government should cease to perform its essential functions. The resolution says that the Council should express the opinion that no official Bills, that is, no Bills sponsored by Government, should be introduced in either House of our Legislature which is likely to evoke communal or economic controversy. The reason given by the honourable mover was that the country being now at war, efforts of everybody in India should be bent towards its successful prosecution. Sir, the honourable mover of this motion belongs to the Congress Party in this Council. As he has been allowed to move this motion formally in this House, I suppose, he has the support of his whole party with him. Sir, it is too well-known that the Congress has not shown the least desire to have anything to do with the prosecution of the war in which the British Empire is now engaged——(Mr. LALIT CHANDRA DAS: Question.) But no questioning can alter facts. The Congress has withdrawn the Congress Ministries and it has declared that unless the British Government in Great Britain at once declare India to be independent and hand over the administration of India, body and soul, to the Congress, it will have nothing to do with Great Britain in the prosecution of the war.

Well, Sir, much to my surprise now I find a member of the Congress Party proposing that for the successful and concentrated and intensive prosecution of war the Government of Bengal should cease their legitimate functions. One could have understood the real position if such a motion had been brought forward in the other House as well and if the Congress Party had shown their earnestness in the matter by suggesting that the Indian constitution should be held in abeyance during the duration of the war, and that the money spent on the Ministers, Speakers and Presidents and members of the Legislature should be utilised for payment to the War Purposes Fund. That would have been a test of sincerity and seriousness behind this proposal. I wondered at first if it was a serious proposal at all, but one has got to take it in the fashion in which one is accustomed to take a thing in this House. The other day I remarked that I was a newcomer here and that I expected proposals to be made here in all seriousness; but I find that motions are moved here by members which do not

seem at all serious and well-thought-out and which it is impossible to give effect to. There is nothing serious behind them——

Mr. PRESIDENT: Order, order. You will not be in order to cast any reflection on the proceedings of this House.

Maulvi ABUL QUASEM: I am not casting any reflection on any of the proceedings of this House. I am just giving my impression about the proceedings produced in my mind.

Well, Sir, what I am aiming at is this: as my friend Mr. Nur Ahmed has submitted, who is to judge what is a communal or economic question which is likely to give rise to a controversy? I suppose, whatever will be dubbed as a communal or economic or controversial matter by the opposition, Government will at once have to submit to that reading of the situation. Well, Sir, it is impossible and I may also say an absurd situation.

Now, Sir, let us suppose that Government thinks that a particular class of people during the stress of the war are suffering from a very bad condition of affairs. Government makes a proposal that something should be done to ameliorate their condition. I give an instance: only the other day the two Houses of the Legislature passed the Money-lenders Bill. It has been alleged that this Bill is meant to crush the Hindu money-lending classes, the Hindu middle-classes; and because it was meant to do some good to the poor people who suffer from indebtedness, such a measure would be taboo if this resolution were accepted. Suppose, Government thought that an intensive effort to make the villages healthy is necessary. People from the Hindu community, from which most of the doctors are drawn who make their living out of the illness and sickness of the people, may very well say that it is an economic question and it will affect the livelihood of a large number of people, and so Government will have to drop it.

Again, Sir, suppose that for the successful prosecution of the war Government propose that additional taxation should be imposed. That will certainly give rise to an economic controversy. But if the proposal is withdrawn, the prosecution of the war cannot be carried on successfully. The mover of the resolution will do well to try and persuade the so-called Nationalist Press to eschew everything controversial during the war before he seeks to persuade others that he and the members of his party in this House are sincere in their professions

that nothing should be done to divert attention from the successful prosecution of the war. As it is, the proposal is absurd and cannot be seriously considered.

Mr. HUMAYUN KABIR: Mr. President, Sir, I confess that I admire the intention of the honourable mover of this resolution, but I am afraid that the admiration cannot extend very much further. I agree with my honourable friend who has just now sat down that, if a resolution of this type is carried, it would mean practically a cessation of all activities. I, with my honourable friend the mover of the resolution, wish for the day when not only during the period of the war but at all times all sorts of controversial questions should be avoided. That is certainly an ideal which is to be aimed at by every member of this House, and not only by members of this House but also by people all over the world, and yet as a matter of fact, we do find that whenever anybody wants to do anything good, well, there is opposition to it. You cannot very often say what is communal and what is economic, what will arouse a controversy and what will not arouse a controversy. My honourable friend who has just now sat down has given a few examples, but any number of examples can be multiplied. Anything which you want to do is bound to have certain effects, and particularly measures which might be brought forward by the Government, and it is generally known that in many cases not only in this country but all over the world, whenever something has been done which has affected the vested interests, the vested interests have always brought forward some colourable pretext, some cry of ideal, or some cover of attack on religion or culture or some such slogan in order to defend their vested interests. It is, therefore, that we have had so great a realist in politics as Lenin to say—with what justification we need not judge—that even a thing like religion may be used as opium on the people. Well, Sir, whatever the question that is raised, you can always find some people to say something for it and something against it. If the question is of any importance at all, it is bound to arouse controversy, it is bound to affect the interests of certain persons. I think my honourable friend who has moved this resolution will be at one with me when I say that we all desire that there should be better justice in the world as a whole, there should be a more equitable distribution of property, there should be less inequality between man and man, there should be less conflict between the interests of different groups. If you want a better distribution of wealth, if you want better justice among different groups of individuals, these will certainly affect the interests of those who to-day are in possession of vested interests. Therefore, you cannot do the greatest good to society, you cannot do good to the largest number of people, you cannot do greatest good to the greatest majority of the people without interfering with

the interests of certain classes of people, who have reserved in their hands all the wealth—in certain cases it may also be the culture—and all the property of the country. Controversies will be aroused, economic and communal issues will be raised, and therefore any measure which seeks to do any good to the great majority must tread upon the corn of certain vested interests.

Therefore, I feel that a resolution of this type cannot be accepted by this House.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, after the scathing comment of Mr. Abul Quasem and the cold logical speech of Mr. Humayun Kabir, there is very little left for me to say except to point out that even Mr. Abul Quasem had gone a little bit further when he said that Government will consider this proposition, provided there was an assurance from the Congress Party that they will give their whole-hearted support to the war if Government were to refrain from bringing in any controversial measures——

Mr. HUMAYUN KABIR: Will Government resign in that case, because acceptance of this resolution means resignation of Government?

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the resignation of Government will be controversial. That cannot be done.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, it will be worth considering. But the real difficulties apart from all these objections is this: who is going to judge what is communal and what is going to excite economic controversies? For example, there are people who have maintained that the second Calcutta Municipal Bill is a communal Bill. The main objection to that Bill is, first of all, that the Government have suggested that there should be a Public Service Commission for making appointments. How the Public Service Commission is going to affect only the Hindus and not the Muslims is absolutely beyond my comprehension. Similarly, there are other measures proposed in that Bill which has nothing to do whatever with one community or the other. Yet, that Bill has been declared as one of the most communal Bills and a great deal of agitation is being manufactured against that Bill. Similarly, the Secondary Education Bill that has been introduced by Government and the necessity for which has been recognized for the last ten years, if not more, is now being declared as a communal Bill, and again another agitation is being launched on that account. So, who is going to judge which is a communal Bill? (Mr. LALIT CHANDRA DAS: Public.) Who is the public unless you take a referendum? (Mr. LALIT CHANDRA DAS: As expressed at public meetings.) Public meetings! You can have just the other way as well. Do not think that you are the only persons who can hold public

meetings. There are others also who can hold public meetings. It is not the old Government that you can threaten with public meetings. If public meetings are required, you can have hundreds of thousands saying that these Bills are necessary. So that game won't do.

As I say, this proposition is not tenable because of the fact that we have got no means to decide what is communal and what is non-communal. (Mr. LALIT CHANDRA DAS: Public opinion.) Public opinion as expressed by the majority will be not in your favour. As I have stated, if you hold meetings both in Comilla and Chittagong districts, these measures will be supported by a very strong majority, and if that will be the test, we are ready to accept it.

Therefore, I think that I should not take any more time of this House on this. Government oppose this resolution.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I was listening with great interest to the comments which have been made on the resolution I had the honour to move the other day in this Chamber. It has been stressed by my friends, Khan Bahadur Nazir-uddin Ahmad, Mr. Nur Ahmed, Mr. Abul Quasem and the Hon'ble the Home Minister, in the course of their speches, that the Bills which I have described as of a most controversial character are necessary in order to improve the position of the Muslim community which has been for decades so backward in this province. But, Sir, it is my conviction that for the legitimate improvement of the conditions of life, either of the Muslim, or for the matter of that, of any other community in Bengal, many of the Bills which are now on the legislative anvil and which are widening the gulf between one group of people and another, are not in the least necessary. I should like, Sir, to emphasise the fact that it is open to the Government to undertake necessary reforms for the amelioration of most social and economic grievances of our people without resorting to such drastic Bills as may threaten to divide the province into warring groups. That the Bills are emphatically controversial is evident from the general trend of public opinion in Bengal to-day.

As regards the Congress standpoint which the Hon'ble Home Minister referred to, I may humbly state that although Congress has not co-operated so far with the Government in the conduct of the present war, it will certainly come forward to do so as soon as the Imperialistic principles are abandoned by His Majesty's Government and other necessary conditions created in this country.

To my mind, Sir, if the Government is serious at all about its war efforts, the first thing that it ought to do is to withdraw all the measures which are of a controversial character and which are the greatest obstacle to communal and class harmony in Bengal.

With these few words in reply to the criticisms which have been made on my resolution, I commend it to the acceptance of this House.

Mr. PRESIDENT: The question before the House is the resolution of Mr. Birendra Kishore Roy Chowdhury that: this Council is of opinion that during the period of war, no official Bill evoking any communal or economic controversy should be introduced in either House of the Legislature.

(The resolution was negatived.)

Khan Bahadur ATAUR RAHMAN: Mr. President, Sir, I beg to move the following resolution:—

"This Council is of opinion that the Government should immediately appoint a Committee consisting of twelve members of the Legislature to enquire into the grievances of the clerks of the district offices of Bengal in general and of the Muslim clerks in particular, regarding appointment, transfer, distribution of work, leave and holidays, position in the gradation list, promotion in permanent as well as in officiating vacancies and all other matters that may come up before the said Committee during the time of the enquiry."

Sir, anyone who is in touch with or has got some experience of the working of the district offices and who knows something of the manner in which some of the subordinate clerks are victimised by the superior ministerial heads will agree with me that there are cases which require thorough examination. I do not say that this is due to the inefficiency of the District Officers, but it is due to the fact that District Officers leave matters in the hands of their ministerial heads, who are either called Sheristadar or Head Assistant or Superintendent. These men are generally recruited from the rank. Of course, I do not grudge them their promotion. They well deserve promotion, but unfortunately some of them have got some favourites in the office in the ranks from which they rose, and these favourites of the Burra Babus on many occasions supersede their seniors who deserve promotion. Not only that; these unfortunate clerks, who are not in the good books of the "Burra Babu", are placed in such a position that they cannot show their merit, and after some time they are declared unfit and proceedings are drawn up against them, preliminary to their dismissal. Such is the general state of affairs in many of the offices.

I could well have stopped here, Sir, but I should like to say a few words regarding the conditions of Muslim clerks in particular. Recently in this House a question was asked regarding the panel of Superintendents in the Collectorates. A question was asked as to how many men had been selected for Superintendentship and how many of them were Muslims. The Hon'ble Minister in reply said that he could not even give out the number of Muslims selected in the panel

because it was confidential and that even the total number so selected was also confidential. From this answer my impression was that there might be no Muslim selected in the panel for Superintendentship. Even at the present moment, I think, in the 26 districts in Bengal there are very few Burra Babus who are Muslims. Naturally, therefore, Muslim subordinate clerks are sometimes, I do not say always, but frequently, victimised. As a matter of fact, some cases have been brought to our notice where the Muslim subordinates have not got fair justice at the hands of their Burra Babus. Even in the case of a leave vacancy, if a Muslim clerk happens to be the seniormost and promotion is due to him, he is sometimes declared unfit. Such things, Sir, have happened at various places. We, therefore, request Government to appoint a Committee of Enquiry for investigation into this matter. With these few words, I commend my resolution to the acceptance of the House.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that the Government should immediately appoint a Committee consisting of twelve members of the Legislature to enquire into the grievances of the clerks of the district offices of Bengal in general and of the Muslim clerks in particular, regarding appointment, transfer, distribution of work, leave and holidays, position in the gradation list, promotion in permanent as well as in officiating vacancies and all other matters that they come up before the said Committee during the time of the enquiry.

Mr. NUR AHMED: Mr. President, Sir, I beg to move that this Council is of opinion that for all the words beginning with "immediately appoint" to the end, the following be substituted, namely:—

> "have a thorough enquiry made immediately in such manner as the Government think proper into the grievances of the clerks of the district offices of Bengal in general, and of the Muslim clerks in particular, with special reference to the existing rules, regulations and other incidents relating to their appointments, transfer, distribution of duties, status in service, leave, holidays, promotion and such other matters as may be deemed necessary and to submit as early as possible suggestion of appropriate remedies thereon."

Sir, by this amendment I only want to change the procedure by and the manner in which the investigation should be made. I have carefully read the text of the resolution and I hope my amendment would prove more acceptable to the House. These clerks form a link, a very important link, in the administration of the province. It is admitted that they have got grievances, and that with the inauguration of autonomous Government they have become very articulate for securing

redress of their grievances. I think most of the honourable members have been at one time or another approached by these clerks with their grievances. It is true that sometimes grave injustice is done to them; sometimes, they say, they are unjustly dismissed. It seems that there is no uniformity in the rules regulating their services, but that everything depends on the whims of superior officers and on the convention that has been created in every district. It may be remembered that some questions were asked in this House about the grievances of some clerks in the Chittagong District Judge's office. Similarly, Sir, questions have been put with regard to other district offices. It is desirable that an enquiry should be made; if so, what should be the method of that enquiry? It is a question of enquiry into the conduct of certain Government servants, and a responsible Government ought to be in a better position than a non-official body to make an enquiry into the grievances of subordinate officers against them. If a Committee of Enquiry consisting of 12 members of the Legislature, that is to say, of 12 members of this and the other House, be formed, that Non-official Committee would be confronted with some initial difficulty. This Committee would have to tour from district to district to take evidence, but in their work they will be confronted with difficulties because the subordinate clerks would hesitate to come forward for fear of incurring the wrath of their superiors and also because it will be difficult for them to have access to confidential records as to how promotions as well as dismissals have been made. Besides, the Committee being of a non-official character, such records might not be available to them. Thirdly, from the economic point of view also, such a Committee would be a very costly affair. From all these considerations, Sir, I suggest that the matter be left to Government, urging at the same time that an immediate enquiry should be made.

With these few words, Sir, I move my amendment.

Mr. PRESIDENT: Amendment moved that for all the words beginning with "immediately appoint" to the end of Resolution of Khan Bahadur Ataur Rahman, the following be substituted, namely:—

"have a thorough enquiry made immediately in such manner as the Government think proper into the grievances of the clerks of the district offices of Bengal in general, and of the Muslim clerks in particular, with special reference to the existing rules, regulations and other incidents relating to their appointments, transfer, distribution of duties, status in service, leave, holidays, promotion and such other matters as may be deemed necessary and to submit as early as possible suggestion of appropriate remedies thereon."

Khan Bahadur NAZIRUDDIN AHMAD: Mr. President, Sir, I rise to support the amendment moved by my friend, Mr. Nur Ahmed. I had also given notice of another resolution which was identical with the one moved by Khan Bahadur Ataur Rahman, but on a consideration of the arguments advanced by Mr. Nur Ahmed I think we should better accept the suggestions made in his amendment. The grievances of the clerks in the district offices require careful consideration and investigation. They are suffering hardships under the little despots in district offices known as Office Superintendents. This is not the case in Burdwan alone, but we hear complaints coming from all corners of the province. Burdwan has certainly led to certain disclosures, but the disease is not confined to Burdwan alone. Burdwan is only an example of the type of injustice which is to be found throughout Bengal. It is perhaps within the recollection of this House that with regard to Burdwan, a question was asked by Khan Bahadur Saiyed Muazzamuddin Hosain about the gradation list. You know, Sir, that a gradation list is kept in all district offices. It contains in a serial order the names of all the clerks showing their gradation, that is, their respective seniority in grade. Now, according to Sir Bijoy Prasad Singh Roy who in an unguarded moment had given it out, the register can be written, corrected or amended only by the Collector. I say with great respect that I believe this was an unguarded admission because later questions which attempted to elicit further information made him resile from that position. In fact, it came to this, that there was a clerk whose name was Babu Kanti Chandra Addy——.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I rise on a point of order, Sir? That particular case is not before us, and I have not got the replies to the supplementary questions before me. I would, therefore, request my honourable friend not to make any reference to a particular case.

Mr. PRESIDENT: I would request the honourable member not to refer to any particular person by name because he cannot be here to defend his case.

Khan Bahadur NAZIRUDDIN AHMAD: Very well, Sir, I will not mention names. But I entirely differ from the Hon'ble Sir Bijoy Prasad that I cannot refer to any particular case although I respectfully agree with you, Sir, that I should not mention the names of the persons concerned. I should point out to Sir Bijoy Prasad that in the course of a previous debate on a similar resolution the point taken by Government was that unless specific cases were cited, it would be impossible to take any action. I have carefully studied that debate and the volume

is now before me. That was the specific case made by Sir Nazimuddin as representing the Revenue Department on that occasion. But now when we are citing specific cases in accordance with that suggestion, we are confronted with the opposite objection that we cannot refer to any particular case because the report of the debate is not with the Hon'ble Minister.

Mr. PRESIDENT: Order, order. The point is that the honourable member is fully justified in sending the names to Government but in discussing here in public it is desirable not to mention particular persons by name because they are not present here to answer the charges against them. I would, therefore, request you to avoid, as far as practicable, mentioning the names of particular persons.

Khan Bahadur NAZIRUDDIN AHMAD: I bow down to your ruling, Sir. I shall not mention names of the individuals concerned, but I think I can refer to the cases without mentioning their names in so far as such cases would go to support the point of this resolution.

Now, to come back to the interpolations. It is admitted that there is a register which is sacrosanct and which can only be changed by the Collector himself. On another day we had another admission from Hon'ble Sir Bijoy Prasad when he refrained from using the word "interpolation" but admitted that there was a "change" in the entry which was done by a person who was to be benefited by that change, and that this was done by him under the orders of the Office Superintendent. Further questions elicited the information that the Office Superintendent was no longer in Burdwan since 1933 and that there was no written record to prove this order. And ultimately the Hon'ble Minister had to rely on surmises and conjectures and he began a series of arguments instead of giving clear answers to questions of fact. Instead of giving information, he argued that as these things were done as a matter of routine work, there must have been some sort of order by the Office Superintendent, and as the Office Superintendent was absent and as there was nothing on record, so he assumed that there must have been some verbal order by the Office Superintendent. We wanted facts and he gave us arguments. Boiled down, his reply came to this: there must have been some order; as the order was not written, so we must be driven to the other alternative—that there was some verbal order. Now, Sir, I submit that the gradation list is an extremely important document, and it is to be corrected and amended by the Collector alone and by nobody else. That is a position accepted by the Government. I, therefore, entirely fail to see how anybody else can make changes in the register so as to benefit himself and how any Superintendent's order or connivance can help the situation. Now, the

effect of an anxious support by Sir Bijoy to a transaction of this kind has been that the man who was involved in this "change," this daring interpolation—which in the language of the Penal Code amounts to nothing but forgery—has been promoted, and others who were prejudicially affected thereby have been punished. Thus, Sir, you have rewarded the wrong-doer and punished the victims of the crime. This is how matters stand. In these circumstances, it is necessary that there should be an enquiry. This is a specific case that I was forced to bring to the notice of the Hon'ble Minister because we were challenged to submit individual cases. There is the case of another man which was raised by a certain question put forth by Khan Bahadur Ataur Rahman. It is to be found in Volume III of the Council debates of 1939-40, at page 203. It will be found that a clerk who was 107th in the gradation list got sudden promotion. On the question being driven further, Sir Nazimuddin, replying for Sir Bijoy Prasad, said that he was a stamp clerk, and so he had to give security; and as others did not offer any security, they were superseded. So far as I know, the Hon'ble Minister would be able to verify the fact that there were many others who had offered to give security and had also experience to their credit. Now, the man who was 107th in the list and who had no experience of stamp work, was allowed to supersede no less than 106 clerks who were senior to him who had experience of this class of work and had also agreed to give security. Yet, I am told, the report went to the higher authorities that the lucky man had experience. I am further told that after the report he was given gradual training. As a stamp clerk he made serious mistakes. He sold a non-judicial stamp to a litigant who wanted a judicial stamp for a case and he had endless trouble over this. Yet nothing has been done for it. A Special Officer has been deputed to inquire about the grievances of the clerks. Unless he goes deeper into the problem, his work will not be useful. We think, Sir, that a very sifting enquiry is necessary, and unless that is done it will not be useful. In these circumstances, I submit that Government should accept the motion.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nahipur: Mr. President, Sir, so far as the principle of the resolution is concerned, I rise to support it wholeheartedly, and I do so on behalf of my Party. Sir, I had an occasion to preside over the Ministerial Officers' Conference held some time ago when I got the impression that there were genuine grievances of the clerks and other ministerial officers in the districts. I found also, Sir, that in some cases their promotion, discharge or otherwise had been deferred by the superior officers due to partial treatment, sometimes due to favouritism of one clerk and so forth. But I do not like to give illustration after illustration as my friend the Khan Bahadur has done, but in general I can say that there are grievances which require careful consideration, as some of their

grievances are just. But, Sir, I do not admit that they refer to only one community as the resolution says. It has been said in the resolution, "grievances of Muslim clerks, in particular." If a Committee is appointed, then it will go into everything, and if there is anything wrong whether with regard to Hindus, Muslims or Christians, that will be rectified. So, it is not necessary to give it a communal colour. On the other hand, if a Committee is to be appointed, it should consist of both Muslims and Hindus and others so as to be of a representative character. In any case, I think it is desirable that a Committee should be appointed to satisfy the public. It may be said that Government do feel sometimes a little bit harassed. But after all, it is a popular Government, and I think to satisfy the people Government should accept this resolution. The recommendations of the Committee will be forwarded to Government, and they will deal ultimately with those recommendations. It is not obligatory on the part of Government to accept their recommendations *in toto*, but they will be in a position, on the other hand, to see how things are going on, whether there is any partiality or impartiality in treatment or whether there is any dishonesty. All the facts will be revealed to them and they can decide according to the recommendations of the Committee.

With these words, I support the motion.

Khan Bahadur M. SHAMSUZZOHA: Sir, I beg to give my wholehearted support to the motion moved by my friend, Khan Bahadur Ataur Rahman. It has already been said by previous speakers that some questions were put on behalf of our Party to ascertain whether there were some grievances on the part of several clerks of the district offices. I also moved a resolution in respect of setting up an Appeal Board to consider the question of promotion of clerks in district offices. I had to withdraw that resolution on the assurance that sympathetic consideration would be paid to the question that I raised on that occasion. Sir, that was one of the many questions that vitally affect the prospects of a large section of people who have been working under the Government and really bear the brunt of the administration.

It is a pity, Sir, whenever some important questions are put up before responsible leaders of our country on behalf of a certain class of people or community on vital matters touching their welfare and advancement, they are unfortunately characterised as communal, simply—and I maintain most untenably—on the ground that they emanate from a certain class or community. Sir, when we, as responsible members of the Legislature commanding the respect of all communities and classes of people within the province, find that there is a grievance which is really felt by some section of the public, it is our solemn duty to look into those grievances dispassionately and try to meet them as far as it lies in our power. Sir, it is admitted by all the

clerks in the district offices in Bengal that a particular community has monopolised all the higher offices there and has been enjoying the loaves and fishes thereof. It is really a question to be thought of and pondered over as to why in the 26 districts of Bengal very few Muslims have up till now been raised to the status of Superintendents or Sheristadars or Head Clerks and Accountants? It is also to be seriously considered whether from amongst hundreds of Muslim clerks of several departments in the district offices, there are available men competent to shoulder the responsibilities of a Sheristadar or an Office Superintendent or Head Clerk or Accountant in the offices of the District Magistrate, District Judge, Superintendent of Police, etc., in the districts all over Bengal. Really, it pains us on this side of the House to see that there are friends amongst us who cannot see eye to eye with us and who say that we are communally-minded. Really, all that we now plead for is justice, vision and imagination; because in a truly democratic and national State or Government, it is essential for its preservation and prosperity that every limb must be strong and all its component parts must feel that they are getting justice. We, the Muslims of Bengal, plead for broad-mindedness, toleration and justice. My appeal to the Government is to realise that mere acceptance of this resolution will not do. We do urge upon the Government to take immediate steps so that the real grievances of the clerks of all offices in the districts of Bengal, particularly of the Muslims, may be met. I may state here that since the withdrawal of my resolution, Government have not taken any steps, so far as I know, to meet the points that I raised therein. Now we strongly desire and hope that in fulfilment of the resolution that we pass this afternoon, the Government of the day will kindly take steps to appoint a Committee of Enquiry in whatever way they think best to remove the grievances of these people. I am sure that if they begin with a will and determination, the wrongs will be righted in as short a time as we expect them to be removed.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to support the amendment which has been moved by my friend, Mr. Nur Ahmed. In doing so, I will only add a few words. It is an open secret that favouritism and nepotism are the order of the day in all the district offices in Bengal, and to concrete instances of such favouritism and nepotism we wanted to draw the attention of Government by putting questions in this Council some time back. But, Sir, in one case it was found that though the question was tabled on the basis of information from somebody who was not at all connected with the matter at issue, a particular clerk was victimised. Proceedings were drawn up against him, and he would have been dismissed but for the fact that I had to intervene. For saving him, only

I had to write to the Collector of the district saying that I had not got the information from that gentleman against whom proceedings had been drawn up. Sir, if by putting questions to Government justice to this class of people could be obtained, there would have been no necessity for a resolution like this. But we have found that not only Government is not at all willing to take any action, but even the District Officers resent our putting any question in matters like this in order to expose their vagaries. For this reason, it is absolutely necessary that a thorough enquiry should be made throughout the province to find out how favouritism and nepotism are playing their part in matters of promotion in the districts of Bengal.

I know, Sir, that in the matter of distribution of work a great deal of nepotism and favouritism is practised in district offices. I know of many efficient clerks being employed for merely pasting correction slips for years together, not being given any other work to do, not being allowed an opportunity to show their efficiency. Sir, we know there is valid grievance on the part of many an efficient clerk who are rotting in the mufassil district offices, who cannot show their ability—they are not given an opportunity—only because they are not the favourites of the head of the office. Sir, it is high time now that all these vagaries should be stopped and a thorough enquiry should be made.

With these words, Sir, I wholeheartedly support the amendment moved by Mr. Nur Ahmed.

Khan Bahadur ATAUR RAHMAN: Sir, I desire to accept the amendment proposed by Mr. Nur Ahmed. I am also thankful to the Raja Bahadur of Nashipur for his kind support to this motion, and I am sorry that there was a tinge of communalism in my speech——

Mr. PRESIDENT: Order, order. Are you replying to the debate?

Khan Bahadur ATAUR RAHMAN: No, Sir.

Mr. HUMAYUN KABIR: Sir, will you not give us an opportunity to speak?

Mr. PRESIDENT: I think it is hardly necessary to give an opportunity to every member to speak on a matter to which there is no opposition.

Mr. LALIT CHANDRA DAS: In view of the fact that we may give our qualified support to the resolution, we would like to move an amendment.

Mr. PRESIDENT: Order, order. I shall not accept notice of any amendment at this stage.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government have got nothing but admiration and sympathy for the loyal band of officers in whose interest this resolution has been moved. Government are always anxious to remove their grievances and to enquire into any allegations of unfairness against any particular officers, if such instances are brought to the notice of Government. In fact, I will not try to emulate the example of Khan Bahadur Naziruddin Ahmad by referring to any particular name, but speaking generally, in regard to all questions which are raised in this House, Government make it a point to refer them to local officers in order to ascertain the information and if they are convinced that there is a tinge of unfairness, they do show their disapproval without hesitation. That is a policy which this Government propose to follow. They have followed it during the last three years and they propose to follow it so long as they are in office.

As regards the resolution itself, Government have much pleasure to accept it in the amended form. Government are trying to do justice without any distinction of caste or creed and if any ministerial officers in certain matter do feel aggrieved because of the existence of certain rules about the distribution of work or promotion or any such matter——

Khan Bahadur NAZIRUDDIN AHMED: It is not the rules, but the officers concerned that are bad.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If Government on enquiry find that the grievances are genuine, they will not hesitate to change the rules. So, I hope this will satisfy the mover of the resolution, the mover of the amendment and those who have given support partially or fully to this resolution.

Government are always anxious to look into any grievances which are brought to their notice. In fact, whenever the Ministerial Officers' Association are inclined to bring a matter to the notice of Government they are cordially received and patiently listened to. On more than one occasion in the course of the last three years, I have received the representations of the Ministerial Officers' Association and other members of Government such as the Member, Board of Revenue, Secretary, Revenue Department, Secretary, Finance Department, have also received representations on certain matters during the last three years. So, I venture to submit that Government far from being unsympathetic to the grievances of these ministerial officers are always anxious to be fair and just to them. There are certain systems that have been functioning

for some time, there are certain rules that are being followed for a long time, and if those rules and those systems are unworkable or are operating harshly on the ministerial officers in a particular sphere, certainly they require change——

Khan Bahadur NAZIRUDDIN AHMED: It is not the rules, but the officers who are bad.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Our difficulty is that Government cannot bring about a change in human nature all on a sudden. But I hope that by change of rules they will try to infuse a sense of fairness and justice and encourage those who are in difficulties to bring forward their grievances to the notice of their superior officers and the Government. Sir, I think that is the proper and effective method of dealing with the matter, and I hope this will satisfy my friends the mover of the resolution and the mover of the amendment. Government are prepared to accept the resolution, as amended.

Khan Bahadur ATAUR RAHMAN: Sir, this is a matter which concerns the Judicial Department as well, and we should be glad if the Hon'ble Minister in charge of the Judicial Department would kindly give us an assurance that the grievances of the ministerial officers in the offices of the District Judges would also be included within the scope of this enquiry.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I was not aware that this resolution also refers to the grievances of clerks in the offices of the District Judges. Had this been explicitly and clearly stated in the body of the resolution, I would have come prepared for a suitable reply. I can, however, say this much that I have no objection to an official enquiry being held into the state of affairs in the offices of the District Judges.

Khan Bahadur ATAUR RAHMAN: Sir, we must thank the Government for their acceptance of the amended resolution and hope that effect to this resolution would be given as early as possible. Only a few minutes ago, I offered my thanks to the Raja Bahadur of Nashipur for his support to this resolution. Having been for some time the President of the All-Bengal Ministerial Officers' Association, he has more intimate knowledge of the present state of affairs than we have. He has only objected to the introduction of the words "Muslim clerks." Sir, I would not have done so, but for the fact, as has already been stated by my friend, Khan Bahadur Shamsuzzoha, that very few of the Burra Babus are Muslims and that, therefore, the Muslim subordinates suffer more than their Hindu colleagues belonging to the other communities. That is the reason why I have introduced the word

"Muslims." After this explanation, I hope the Raja Bahadur of Nashipur will excuse me for what communalism has crept in in my speech and will support us *in toto*.

Mr. PRESIDENT: Resolution moved by Khan Bahadur Ataur Rahman: that this Council is of opinion that the Government should immediately appoint a Committee consisting of 12 members of the Legislature to enquire into the grievances of the clerks of the district offices of Bengal in general and of the Muslim clerks in particular, regarding appointment, transfer, distribution of work, leave and holidays, position in the gradation list, promotion in permanent as well as in officiating vacancies and all other matters that may come up before the said Committee during the time of the enquiry.

To this an amendment has been moved by Mr. Nur Ahmed that for all the words beginning with "immediately appoint" to the end, the following be substituted, namely:—

> "have a thorough enquiry made immediately in such manner as the Government think proper into the grievances of the clerks of the district offices of Bengal in general and of the Muslim clerks in particular, with special reference to the existing rules, regulations and other incidents relating to their appointments, transfer, distribution of duties, status in service, leave, holidays, promotion and such other matters as may be deemed necessary and to submit as early as possible suggestion of appropriate remedies thereon."

The question before the House is: that the amendment be made.

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that the amended resolution, namely:—

> "This Council is of opinion that the Government should have a thorough enquiry made immediately in such manner as the Government think proper into the grievances of the clerks of the district offices of Bengal in general, and of the Muslim clerks in particular with special reference to the existing rules, regulations and other incidents relating to their appointments, transfer, distribution of duties, status in service, leave, holidays, promotion and such other matters as may be deemed necessary and to submit as early as possible suggestion of appropriate remedies thereon:",

be accepted.

(The motion was agreed to.)

Mr. NUR AHMED: I beg to move that this Council is of opinion that an additional sum of one crore of rupees be set apart by the Government of Bengal in the course of 5 years in the budget estimate of successive years for the expansion and improvement of primary education in Bengal.

Sir, in moving this resolution I need hardly say that it is one of the most important problems to be tackled in Bengal. I do not think that I need take much time in impressing on the House the need for this allotment. It is an admitted fact that universal free and compulsory primary education is a substratum on which the super-structure of a nation's progress is constructed. No nation, no community, can expect to rise in this world without it.

Now, Sir, let us see how Bengal stands in this vitally important matter. Let us have a glimpse of the present condition of primary education in Bengal at this moment. Though the province of Bengal has got the largest number of schools—about 64,000 and odd at the rate of one school per 1·035 square mile—literacy has spread very slowly, it is doubtful whether it has spread at all. In the words of Mr. Biss, I may say that though the number of schools has increased, the number of illiterates has also increased awfully owing to increase of population. Increase of illiteracy is prevailing on a larger scale in Bengal than even malaria and other diseases. The increase of population has increased the bulk of illiteracy. Why is this so? It is mainly due to the unequal distribution of schools. Out of 109,594 villages in Bengal, 72,302 villages have no primary schools at all. Only 37,292 villages have got primary schools numbering about 61,502. Now, Sir, out of this only 12,429 are upper primary schools having all primary school classes—about 587 primary class schools are one-teacher schools where no literacy is produced. From the figures obtained from the Government of Bengal and from the Government of India, it will be seen that in 1937 out of 2,665,506 pupils reading in primary schools only 10,640 girls and 121,208 boys were in top classes——

Mr. PRESIDENT: Order, order. The House stands adjourned till 2-15 p.m. on Monday next.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 19th August, 1940.

Members absent.

The following members were absent from the meeting held on the 16th August, 1940:—

(1) Mr. Kader Baksh.

(2) Rai Bahadur Keshab Chandra Banerjee.

(3) Mr. Hamidul Huq Chowdhury.

(4) Mr. Narendra Chandra Datta.

(5) Mr. Kamini Kumar Dutta.

(6) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(7) Mr. Mohamed Hossain.

(8) Alhadj Khan Bahadur Shaikh Muhammad Jan.

(9) Maulana Muhammad Akram Khan.

(10) Mr. W. B. G. Laidlaw.

(11) Sir T. Lamb.

(12) Mr. Naresh Nath Mookerjee.

(13) Dr. Radha Kumud Mookerjee.

(14) Rai Bahadur Radhica Bhusan Roy.

(15) Mr. W. F. Scott-Kerr.

B. G. Press—1940-41—7379A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Monday, the 19th August, 1940, at 2-15 p.m. being the thirteenth day of the Second Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

The appointment of a new Secretary of the Bengal Provincial Text-Book Committee.

71. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether a new Secretary has been appointed for the Bengal Provincial Text-Book Committee in place of the one who was working before in that capacity? What are the names of the new Secretary and the old Secretary who has been replaced by the new incumbent?

(*b*) Do Government propose to reserve this post for any particular community? If not, were there candidates of other communities with higher qualifications available for the post?

(*c*) Is it a fact that the new Secretary joined his post after the selection of text-books for last year was gazetted? Is it a fact that those text-books were examined by the different sub-committees of the Text-Book Committee and their recommendations were finally approved first by the committee as a whole and then by the Director of Public Instruction?

(*d*) Is it a fact that the new Secretary has asked one author to expunge from the Bengal Reader a piece under the caption of "Sikh Guru Tej Singh"?

(*e*) Is it a fact that two very distinguished educationists, one of whom is a Muhammadan and the other a learned Muslim M.L.A., reputed to be a poet, had examined the piece named "Sikh Guru Tej Singh" and found nothing wrong about it and that the Director of Public Instruction, finding no reason to differ from them, finally selected and incorporated it in his gazetted list?

(*f*) If so, has the new Secretary the power to discard any portion of any book finally selected by the authorities? If not, do Government propose to ask him to revoke his order?

(*g*) Do Government propose to revise the text-books and reopen the matter of selection of text-books? If so, do Government propose to put under a fresh examination only the approved books or even those which have been rejected?

(*h*) Is it not a fact that in the selection of text-books last year, many meritorious books written by well-known Hindu authors were rejected by the Bengal Provincial Text-Book Committee?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): (*a*) Yes: Mr. Kazi Abdul Wadud. Khan Bahadur Mr. Badiur Rahman.

(*b*) The post was reserved for a Muslim in accordance with the communal ratio laid down by Government.

(*c*) Yes.

(*d*) Yes, with the approval of the Director of Public Instruction.

(*e*) Yes, it may be that the extract in question escaped the notice of the reviewers.

(*f*) Yes, if instructed to do so by the Director of Public Instruction.

(*g*) and (*h*) No.

The appointment of a non-Bengali as Principal of the Serajganj College.

72. Mr. SRISH CHANDRA CHAKRAVERTI: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact that a Muhammadan gentleman residing outside Bengal has been appointed as the Principal of Serajganj College?

(*b*) Is it a fact that no qualified Bengali Muhammadan was available for the post? If so, is that the reason for appointing the said gentleman to the post? If not, what are the reasons for such appointment?

(*c*) Was no Bengali Hindu available for the post? If so, on what grounds Bengali Hindus were not given a chance?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) Yes.

(*b*) It is understood that a qualified Bengali Muslim applied for the post, but that he did not appear before the Governing Body of the College at the time of interview. The appointee was selected by the votes of the majority of the members of the Governing Body.

(*c*) A Bengali Hindu was available. He was not selected by the Governing Body.

The progress of Moslem education in Bengal.

73. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact that while on the 31st March, 1932, there was an increase of 297,835 Muslim pupils in Bengal, on the same date in 1937, the increase was only 218,420? Is it a fact that the Hindu and Christian pupils showed comparatively greater increase during the same period?

(*b*) Will the Hon'ble Minister be pleased to state if he had made any enquiry into the causes of this sudden set-back in the progress of Moslem education in Bengal?

(*c*) Will the Hon'ble Minister be pleased to state what steps he has taken or intends to take to accelerate the pace of Moslem education in Bengal?

(*d*) What is the number of scholarships and stipends that are granted by the Government of Bengal? Of these, how many are exclusively for Moslem students?

(*e*) How many new scholarships and stipends have been created for Moslems by the Government of Bengal for encouragement of Moslem education?

(*f*) Has the Government of Bengal given effect to the recommendations of the Moslem Education Advisory Committee regarding scholarships and stipends? If not, why not? When is the Government's resolution on the report of the Moslem Education Advisory Committee expected to be published? Why has it not been published so long?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) Yes. There was further increase in the collegiate and higher stages, but the percentage of increase fell off in the case of the lower stages.

(*b*) There was no real set-back and I am not so much concerned to enquire into the reasons for past deficiencies as to take steps to improve the future position.

(*c*) In various directions steps have been taken to accelerate the pace of Moslem education. The following may be mentioned:—

(*i*) there has been increased allotment for grant-in-aid to madrassahs, old and new;

(*ii*) the normal provision of building grant to madrassahs has been increased;

(*iii*) special grants have been paid to some Moslem institutions, such as the Calcutta Moslem Orphanage, Suri Girls' Maktab, etc.;

(*iv*) scholarships and stipends for Moslems, both for boys and girls, have been increased;

(*v*) the percentage of free-studentships to Moslem students has been raised;

(*vi*) a college for Moslem girls named the Lady Brabourne College has been started in Calcutta from July, 1939; and

(*vii*) a committee has been appointed to report on the improvement of madrassah education in Bengal.

(*d*) There are altogether 2,132 scholarships and stipends which are open to the students of all communities. Of these, 838 stipends of different values are reserved specially for Moslem students. In addition to these scholarships and stipends, there is a provision at the disposal of the Director of Public Instruction for—

(1) Rs.9,800 for grant of special stipends to non-Moslem students;

(2) Rs.10,000 to other than Scheduled Castes in Government and aided colleges;

(3) Rs.10,104 to Scheduled Castes students;

(4) Rs.19,000 to Moslem students;

(5) Rs.20,640 to Moslem students for study of Science; and

(6) Rs.2,400 to boys of the Nizamat family.

(*e*) 184 new scholarships and 290 stipends of different values have been created for Moslem students in the current financial year.

(*f*) The member is referred to the reply given on the 22nd May, 1939, to question No. 170 put by him on the floor of this House.

Government have appointed a special Committee, as referred to at (*c*) (*vii*) above, to investigate the problem of madrassah education in Bengal. A comprehensive resolution will be published by Government on receipt of the report of the above Committee.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state when is the report of the Madrassah Committee expected?

The Hon'ble Mr. A. K. FAZLUL HUQ: It is complete in draft and we expect that in about a month's time the printing will be completed: that is the utmost limit.

Khan Bahadur ATAUR RAHMAN: Arising out of (*iv*), will the Hon'ble Minister be pleased to state whether the Brabourne College is only for Moslem girls?

The Hon'ble Mr. A. K. FAZLUL HUQ: No, it is open to all; but at present mostly Moslem girls are attending, because I think there are three non-Moslem girls' colleges.

Political prisoners in the Comilla Jail.

74. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether in the Comilla Jail, there are three political prisoners taken into custody under the operations of section 107, Criminal Procedure Code? If so, who are they?

(*b*) Is it a fact that amongst them, there is one who intends to appear in the next B.A. Examination? If so, who is he?

(*c*) Is it a fact that he is allowed five books at a time to read?

(*d*) Is it a fact that he wants all his books at a time to be by his side to be able to read according to his choice at any time?

(*e*) Do Government propose to allow him to have all his books by his side to follow and read as he would like?

(*f*) Is any daily newspaper allowed to them and to other political prisoners to read and are Government aware that they have a grievance that they are not allowed any daily Indian newspapers to read?

(*g*) Do Government propose to remove this grievance and allow them a daily newspaper to read?

(*h*) Do Government propose to enlarge the jail library with more readable books?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): As the question is not understood, it is regretted that a reply cannot be given.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether these questions were attempted to be understood by the Home Department or whether they were sent to the jail authorities at Comilla?

The Hon'ble Khwaja Sir NAZIMUDDIN: By the Home Department.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state why was not an attempt made to send them to Comilla?

The Hon'ble Khwaja Sir NAZIMUDDIN: Because, as I have said, before we send them to the jail authorities, we ought to know what is meant by the questions: we could not follow the questions at all.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state which portion of the question the Hon'ble Minister and his department could not understand?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is no such thing as "political prisoners" in the jails.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if any attempt was made to understand the word "political"?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is the misleading part of the question.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state in what way it will be intelligible to the Hon'ble Home Minister so that some definite answer might be available; will it satisfy the Hon'ble Minister if the word "political" is taken away?

The Hon'ble Khwaja Sir NAZIMUDDIN: If proper phraseology is used.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether he actually understood by "political prisoner" a prisoner under section 107—I mean a prisoner who is bound down under section 107 for his political activities?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think we would have understood the question if the honourable member had put in "under section 107 of the Criminal Procedure Code".

Works of the District Board.

75. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department kindly state—

(*a*) whether Government contemplate laying down a definite policy with respect to the maintenance of water-supply and communications within the jurisdiction of each District Board by the respective District Boards in Bengal;

(*b*) whether Government contemplate also to lay down a policy in respect of the new works of the District Boards by which such works will be restricted only to the undeveloped areas; and

(*c*) whether Government propose to call a conference of District Board Chairmen and selected members to consider those matters or propose to form a committee to enquire into those and other kindred matters and report after examining the District Board members, and other responsible officials and non-officials in every district?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, Minister in charge of the Public Health and Local Self-Government Department): (*a*) and (*b*) Steps have been taken for collection of information which is not yet available. With regard to (*c*), the answer would depend on the information relating to that may be received by Government and it will not be possible for Government to come to any decision before such information is available.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state when the information will be available?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

The Payment of Wages Act.

76. Mr. K. C. ROY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state whether it is a fact that decrees passed under the Payment of Wages Act in the Workmen's Compensation Courts are not sometimes realised at all?

(*b*) If so, what steps have been taken by Government to realise the amounts decreed?

(*c*) Is it a fact that in most of the cases referred to the District Magistrate by the Workmen's Compensation Commissioner for execution of the decree, no steps have been taken at all either by the District Magistrate or by the Police? If so, what is the reason therefor?

(*d*) Will he be pleased to enlighten the House on the following points:—

(*i*) how many cases were decreed in the Workmen's Compensation Court in the years 1937, 1938, 1939 and up to May, 1940; names of the employees and also employers against whom the decrees had been obtained;

(*ii*) how much money decreed has not been realised;

(*iii*) what are the names and addresses of the employees and employers from whom no realisations have been made; and

(*iv*) how many of such decrees were executed by the District Magistrate, with the date of such executions and realisations of the amounts decreed and also the names of the decree-holders and judgment-debtors?

MINISTER in charge of the COMMERCE and LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) This has happened in some cases.

(*b*) Action can only be taken as provided for in section 15 (*5*) of the Payment of Wages Act; and this has always been done.

(*c*) I am not aware of any such case.

(*d*) (*i*) Decrees passed under the Payment of Wages Act are—

1937	...	96
1938	...	646
1939	...	260
1940 (up to May)	...	42

The time and staff at the disposal of the authority under the Act do not admit of the preparation of a list as asked for by the honourable member.

(*ii*) The amounts are—

		Rs.	a.	p.
1937	...	4,349	11	6
1938	...	4,417	1	6
1939	...	15,858	8	1
1940 (up to May)	...	341	4	6

(*iii*) A statement is laid on the Library table.

(*iv*) A statement of cases where decretal amounts were recovered through Magistrates (not necessarily District Magistrates) is laid on the Library table.

Control of prices in the villages of the Jessore district.

77. Mr. K. C. ROY CHOWDHURY: (*a*) Is the Hon'ble Minister in charge of the Commerce and Labour Department aware that shopkeepers in places like Lalbagh, Berhampore, Kandi subdivision of Murshidabad district, Panjia Bazar, Keshabpur police-station, Naldi Bazar, Brahmindangahat, Mittapurhat in Lohagara police-station, Bunagatihat, police-station Salkia, Saraspurhat, Ratadanga Bazar,

Pajar Kalihat, police-station Narail in the district of Jessore, have been, in contravention of Government orders, increasing the rates of prices of rice, oil, kerosene, sugar and other necessary articles and also of medicines, day by day, out of war panic without any regard to any standard or fixed price? If so, what steps are being taken by the Government?

(*b*) Will the Hon'ble Minister be pleased to state—

(*i*) how many Food Controlling Officers have been placed in the above-mentioned places;

(*ii*) the number of shops inspected by them and the date and time of such inspection made by them;

(*iii*) also the cases of shopkeepers reported and prosecuted with the date and time of such prosecutions from December, 1939, to June, 1940; and

(*iv*) if any prosecution and inspection have been made; if not, why not?

The Hon'ble Mr. H. S. SUHRAWARDY: (*a*) No.

(*b*) (*i*) and (*ii*) No Food Controlling Officer as such has been appointed but the Subdivisional Officers, Circle Officers, Police Inspectors and Debt Settlement Officers have been instructed to keep a careful watch on trend of prices and report cases of profiteering; but no such report has been received.

(*iii*) and (*iv*) Do not arise.

The Bengal Tanning Institute.

78. Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state—

(*a*) what is the total number of students now under training in the Bengal Tanning Institute;

(*b*) the names of the members of the staff with their respective pay and allowances; and

(*c*) the total cost for running this institute?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) Nineteen.

(*b*) A statement is laid on the table.

(*c*) About Rs.48,800 annually.

Statement referred to in the reply to clause (b) of question No. 78, showing the names of the members of the staff with their respective pay and allowances in the Bengal Tanning Institute.

Names.	Pay per month.
	Rs.
Rai B. M. Das Bahadur, M.A. (Cal.), M.Sc. (Leeds), Superintendent ...	1,500
Mr. B. B. Dhavale, M.A., A.I.C., F.C.S., Research Chemist ...	625
Mr. U. N. Dutt, Tannery Foreman ...	250
Mr. B. N. Pal, B.Sc., Demonstrator in Leather Chemistry ...	140
Maulvi Abu Isa Md. Mosiha, Tannery Assistant ...	90
Mirza Basheer Ahmed, Tannery Assistant ...	75
Mr. S. K. Mitter, Microscopist ...	75

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if we are to understand that Rs. 48,000 is spent for 19 students only?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes, Sir. It is a Research Institute and it will be unfair to assess the necessity of the expenditure only with reference to the number of students under training there.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state what is the total capacity of this institution,—I mean, how many students can be taken in?

The Hon'ble Mr. TAMIZUDDIN KHAN: I ask for notice.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if he is aware that 19 constitutes the total number of students that this institute can take in?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, that is only repetition of the previous question in regard to which I have asked for notice.

Notice by Hon'ble Minister regarding Non-official Bill.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I intend to move the following amendment in regard to the motion given notice of by Mr. Nur Ahmed that the Eastern Bengal and Assam Disorderly Conduct Bill, 1940, be taken into consideration and passed, as settled in the Council:—

"That the Eastern Bengal and Assam Disorderly Conduct (Amendment) Bill, 1940, as introduced, be circulated for eliciting public opinion thereon by the 30th November, 1940."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have given notice of a motion that the Bengal Alluvion and Diluvion Bill, 1940, be taken into consideration and also passed, as settled in the Council. It is included in the agenda for being taken up any day from to-day onwards. May I suggest that amendments to this Bill may be accepted at short notice and that to-morrow may be fixed as the last date for sending in such amendments, so that the Bill may be taken up on the 21st August?

Mr. PRESIDENT: If there is no objection from any side, I would like to relax the rules and permit the Bill to be taken up for consideration on the 21st August.

(No objection was raised from any side of the House.)

As there is no objection, the suggestion of the Hon'ble Minister may be taken to have been accepted by the House.

GOVERNMENT BILLS.

The Bengal Jute Regulation (Amendment) Bill, 1940.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I beg to move that the Bengal Jute Regulation (Amendment) Bill, 1940, be taken into consideration.

Mr. PRESIDENT: I would like to point out that according to section 77(*1*) of our rules, ten days' notice is necessary. When this Bill was laid on the table on the 13th August, you did not request the Chair to suspend the rule for taking the Bill into consideration at shorter notice.

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes, Sir, that was so. That was the earliest date on which I could give notice of this Bill on

the floor of this Council but it was a mistake on my part not to have requested your permission for giving notices of amendments at short notice; I took it that when you fixed the 19th August for consideration of the Bill, you had accepted the position that amendments would be tabled at short notice.

Mr. PRESIDENT: According to section 77(*1*) of our Rules, any Minister acting on behalf of the Government in the case of a Government Bill or, in any other case, any member, after giving ten days' notice or, with the consent of the President, at shorter notice, may move that the Bill be taken into consideration. My difficulty is that there was no announcement from the Chair asking for notice of amendments from the honourable members. If there is no objection, the Chair is willing to waive the question of due notice.

Mr. HUMAYUN KABIR: Sir, we want to be clear on one point. Does the Hon'ble Minister want that the Bill should be taken up, clause by clause, to-day or he only wants that the motion for taking his Bill into consideration should be accepted?

Mr. PRESIDENT: The Hon'ble Minister desires the House to consider the Bill, clause by clause.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, the Bill was introduced principally out of deference to the wishes expressed by some members of this House.

Mr. PRESIDENT: The Bill was laid on the Table on the 13th August last and as it is a short Bill, if there is no objection, then alone it may be taken up to-day.

(Cries of "no objection.")

As there is no objection, I take up the Bill now.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I beg to move that the Bengal Jute Regulation (Amendment) Bill, 1940, as passed by the Assembly, be taken into consideration.

Sir, I do not require to make a long speech in asking the House to accept my motion. As I have already said, it is principally in deference to the wishes expressed by some members of this House while the original Bill was under consideration here that this amending Bill has been introduced. The principal amendment is, as was suggested by Khan Bahadur Saiyed Muazzamuddin Hosain on the last occasion, that after record of the jute land is made, the Collector of the district should be empowered to make a revision within one year, of his own motion or on the application of an aggrieved party. That was

considered by Government to be a very reasonable request, because in spite of all precautions it is only natural that in some cases mistakes may crop up and unless there is somebody who can rectify those mistakes, actually some people may be at a great disadvantage. This is the principal amendment of Bill. There are certain other amendments of a very minor character most of which are of a drafting nature. I hope the House will find no difficulty in accepting this motion.

Mr. PRESIDENT: Motion moved: that the Bengal Jute Regulation (Amendment) Bill, 1940, as passed by the Assembly, be taken into consideration.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to support the motion and in doing so I have to thank the Hon'ble Minister for bringing forward this Bill so quickly by way of redeeming his promise. Sir, during the passage of the last Jute Regulation Bill, I brought forward an amendment which sought to provide for correction of records at the instance of absentee parties within one year or at the initiation of the Collector at any time, so that if any omission or mistakes were found the Collector would be able to correct the records. This was a very necessary provision and the Minister had promised that he would bring forward a Bill very soon for incorporating it in the Act. I am glad that he has redeemed his promise, and we thank him for doing so. With these words, Sir, I whole-heartedly support the motion for acceptance.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I also rise to support the motion. During the last session when the original Jute Regulation Bill was due to be considered, a large number of amendments were tabled by members of our party when it was found that we were not in a mood to move them, my friends on the other side, specially Mr. Das, derived considerable amount of amusement for themselves by the thought that we were failing in the discharge of our duties. The only reason why we did not then move our amendments was that the passage of the Jute Regulation Bill was very urgently wanted. Now, since the work was to begin by 1st April, if we were stampeded into moving them through the encouragement of my friends opposite we would have caused a great deal of harm to the province. We would have held up the work till it would have been too late to begin this year. We had then to choose between two alternatives, namely, the welfare of the people and good draftsmanship. Sir, at that time we worked for the benefit of the people and refrained from moving those amendments. In fact, the Hon'ble Minister had promised that our amendments would be consolidated and brought in later through an amending Bill. The present Bill is a redemption of that promise. Our co-operation enabled the Bill to be passed in time

and the necessary drafting changes have been made by the present Bill. The amendments are mainly formal except one important amendment which has been drafted on the suggestion of Khan Bahadur Saiyed Muazzamuddin Hosain. With these words, I support the motion.

Mr. PRESIDENT: The question before the House is: that the Bengal Jute Regulation (Amendment) Bill, 1940, as passed by the Assembly, be taken into consideration.

(The motion was agreed to.)

Clauses 1-4.

Mr. PRESIDENT: The question before the House is: that clauses 1, 2, 3 and 4 stand part of the Bill.

(The motion was agreed to.)

Clauses 5-11.

Mr. PRESIDENT: The question before the House is: that clauses 5, 6, 7, 8, 9, 10 and 11 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that the Preamble and the Title be added to the Bill.

(The motion was agreed to.)

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I beg to move that the Bengal Jute Regulation (Amendment) Bill, 1940, as settled in the Council, be passed.

Mr. PRESIDENT: The question before the House is: that the Bengal Jute Regulation (Amendment) Bill, 1940, as settled in the Council, be passed.

(The motion was agreed to.)

The Bengal Revenue (Charged Expenditure) Bill, 1940.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to move that the Bengal Revenue (Charged Expenditure) Bill, 1940, as passed by the Assembly, be taken into consideration.

Sir, honourable members may have seen from the Statement of Objects and Reasons which has been placed on the Table that this is in point of fact a very formal amendment. Formerly, all payments that had to be provided for in the Budget under various Statutes were non-voted. There was a liability upon the Government of the day to provide

these amounts secured by Statutes, and any Government would have been charged with dereliction of duty had it failed to do so. Under the 1937 Act, this expenditure was non-voted for two years, and thereafter every Provincial Legislature has been given the power to pass an enactment to charge such items of expenditure. Two provinces, namely, those of Assam and the Central Provinces, have taken advantage of this power and have introduced legislation of the type which I am asking the House to take into consideration. The fact that these items in future may become non-voted does not prevent the House from discussing the matter. If honourable members would care to read section 79 of the Government of India Act, they will find it specifically stated that such matters can be discussed on the floor of the House.

There is another item in the Bill. The first item deals with expenditure which has been secured by a Statute, and the second item with certain moneys which formerly used to be collected by the various local bodies and went directly into their exchequer and which at the present moment go to the provincial funds and from the provincial funds they are sent to the local bodies. I think the local bodies would be very much easier in their minds if they knew that there would be no curtailment of the sums of money to which they could look forward, year after year, for the purpose of meeting their expenditure; and in order to provide them definitely with these sums of money the second schedule has been incorporated within this Act. As this merely puts down in the form of a Statute what we believe is the wish of the House regarding payments of money to local bodies as well as to those whose funds are secured by Statutes, this Bill has been brought up for being enacted into law.

Mr. PRESIDENT: Motion moved: that the Bengal Revenue (Charged Expenditure) Bill, 1940, as passed by the Assembly, be taken into consideration.

Mr. NARESH NATH MOOKERJEE: Sir, I rise to oppose the consideration of this Bill.

Sir, this is an attempt to take away from the members of the Legislature of this province their inherent right to initiate discussion on these matters by introducing cut motions. Sir, I feel that this is almost an expropriatory Bill. I do not think there is any reason whatever why the Government should try to introduce such safeguards when even in the Act of 1935 it was not contemplated. I admit, Sir, that this House has no right to introduce cut motions; but I am not merely speaking for this House, I speak generally for the representatives of the people of this province. It is an inherent right with the members of the Legislature of this province to enquire into the working of the departments controlled by these Acts and also to

bring in cut motions. This Bill, Sir, not only takes away that right but also gives the Government a blank cheque in Schedule No. 2 and in the sub-sections of clause 3 to do whatever they please and it is entirely at their discretion, whenever they may so desire, to include any Bill within, or exclude it from the purview of this Bill. Sir, I really feel that this is on principle very objectionable. For instance, I certainly do not see why the Dacca University should be singled out for being included in this. After all, Sir, Government have got a packed majority in both the Houses of Legislature and if they so desire, they can always get their demands for grants passed. They have also given evidence in the past that they can turn down any cut motion which the Opposition may bring forward. But, Sir, to take away such an important right from the members of the Legislature by an enactment of this kind is really unheard of.

I may at this stage refer you, Sir, to sub-sections of clause 3. There are certain amendments moved by my friend Khan Bahadur Naziruddin Ahmad and we shall give our opinions on them when they come up; but I think that the powers that Government seek under this Act, particularly under this sub-section, might take away gradually all powers from the Legislature. Our objection is merely on principle and I appeal to the members of this House,—particularly to the European Group, because they are in the position of a strong third party in this House,—to come forward and enter a protest against the passage of this Bill.

Sir, I feel that further details are not necessary at this stage, but we enter our emphatic protest against the consideration of this Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Mr. President, Sir, I rise to support the motion for the consideration of the Bill. My friend, Mr. Mookerjee's fears are unfounded. In fact, the Acts which have been included in the Schedule are the Acts by which certain expenditures have already been charged on the revenues of the province, and the passing of this Bill means that so far as the expenditures which are thus "charged" on the revenues of the province are concerned, they will automatically be so treated in the Budget. As the Hon'ble Minister has pointed out by a reference to the Government of India Act, a discussion of the items is never prohibited. The Bill has been brought in only to provide an obvious classification between what is votable and what is charged. In fact, any member can move a token cut on the total sum, and by doing so he can initiate discussion on the charged item. These expenditures which are already declared by an Act to be a charge on the revenues of the province are merely brought together in this Bill in a formal manner. This Bill is, therefore, a mere matter of routine legislation which simply helps the department in the work of Budget classification. The Government of India Act has laid down that for the first two years the expenditures

which were already charged by any enactment would be regarded as charged; but that later on after two years an Act of the Legislature would be necessary for such an item to be regarded as a charged one. The provision in the Government of India Act is spent up. In this view, the Bill performs a necessary adjustment in accordance with the Government of India Act by a formal declaration. If my friend, Mr. Mookerjee, thinks that those items which are charged should be put to the vote in the Assembly, I think, there is no legal bar to it. I therefore think that his objection to the Bill is not well-founded. My friend however fears that our right of discussion would be curtailed in regard to many new Acts which might be selected by the Government. This anxiety should be respected and I have tabled a motion at the appropriate place to have the matter clarified; but so far as the general nature of the Bill is concerned, it is an innocent and routine measure to which no exception could be taken.

Mr. HUMAYUN KABIR: Mr. President, Sir, I think that on principle there is nothing wrong in charging certain expenses to the revenues of the province; but the question we must consider is, how this is proposed to be arranged and on what grounds? Some of the fears which have been mentioned by my friend, Mr. Naresh Nath Mookerjee, and agreed to by my friend, Khan Bahadur Naziruddin Ahmad, need not be commented upon, because on such points perfect unanimity seems to prevail on every side of the House. But there are certain other items which, I think, require a little elucidation. There is, first of all, the question of allotting certain expenditure to the revenues of the province on the ground that it enables public utility bodies to plan ahead. If such institutions do not know what amount of funds may be available to them from year to year, they cannot plan beforehand. Hence institutions like a University or a public benefit corporation can justly demand that there should be indications from before as to what amount they can expect from the Government. From that point of view, I personally would hold that the clause which wants to make the payment of this Government to the Dacca University an item of charged expenditure on the province should have been applied on principle to its contributions to the Calcutta University so that that University may also know what amounts it can expect from the Government and be in a position to plan accordingly. Very often it so happens that the University takes up a particular course of development for which funds would be available only if it can be sure of Government grants. Therefore, in such cases there is nothing wrong in allotting certain expenditure to be charged on the revenues of the province.

With regard to clause 3, there are certain points which ought to be elucidated by the Hon'ble Minister. First of all, what

exactly is meant by a grant approximately equal to the grant made in 1937? Why is it that the year 1937 was chosen rather than an average of the last five years? If it is a question of approximate equality, will any variation be made from year to year by the Government and, if so, on what basis? Cannot the point which was mentioned by Mr. Naresh Nath Mookerjee and about which Khan Bahadur Naziruddin Ahmad has an amendment be met? What exactly is meant by this Bill if the Provincial Government can even after the Bill is passed include in or exclude from the Second Schedule any appropriate enactment? If these points are elucidated, I think, some of our objections can be overcome.

Mr. J. B. ROSS: Sir, in rising to support the motion for consideration of this Bill, I would like elucidation from the Hon'ble Minister on one matter which is puzzling me slightly. I notice that in sub-clause (*3*) of clause 3 of the Bill, the Provincial Government may, by notification in the *Official Gazette*, include or exclude from the Second Schedule any appropriate enactment; but no mention is made of the same action with regard to the First Schedule. It occurs to me that when the present Government has finished with the Calcutta Corporation, it is conceivable that you will have sitting in the Corporation buildings a body which for purity, honesty, economy and uprightness may be an outstanding example to the rest of India and it may not, in these circumstances, require the contribution from the Motor Vehicles Act which it receives at present and it is also quite conceivable, therefore, that Act I of 1932 might be repealed. In that case, if that Act is repealed and Government do not take the power to exclude it from Schedule I of the Bill now under discussion, it still remains a charge on the revenue of the province. I would like to have elucidation from the Hon'ble Minister as to how he proposes to deal with the problem under the circumstances.

The Hon'ble Mr. H. S. SUHRAWARDY: Mr. President, Sir, I think after the speech of Khan Bahadur Naziruddin Ahmad, I need only refer to a few points which have been raised in this debate, particularly the logical argument advanced by the last speaker. It seems to me that if ever the Bengal Motor Vehicles Tax Act came to be repealed, no money accruing therefrom would be provided for in the budget, and there would be no sum of Rs. 4½ lakhs to be paid to the Calcutta Corporation which would require to be charged. It does not mean that these sums must be provided for in the budget, it only means that if they are provided for in the budget, they shall be charged and non-voted. It is the statutes by virtue of which money should be provided for in the budget; and, therefore, if an Act is repealed, there is no obligation upon Government to provide that money in the budget. This is my reply to Mr. Ross's remark.

Sir, Mr. Naresh Nath Mookerjee, of course, realises, although I expected that he would not allow this opportunity to go without making some acid reference to it, that the rights of this House to discuss these items have not been taken away by this Bill. The rights of the other House as well to discuss have not been taken away by this Bill. I refer him particularly to section 79 of the Government of India Act where it is specifically laid down that the right to discuss will not be taken away in respect of items of expenditure which are charged. Now, the question is: whether the right to reduce a grant has been taken away or not. So far as that is concerned, a cut motion can be brought in on the general demand; for instance, if you do not like the manner in which the Dacca University is administered and want to cut down that grant, you can bring in a cut motion on the general Education demand and discuss the matter of the Dacca University thereunder. The question is: whether the House should reduce the grant on the floor of the House after compelling Government to bring in a grant in terms of the statute. It is this which will create the anomaly; for instance, on the one hand, you say you must provide five lakhs of rupees statutorily in the budget, and, on the other, you say that the House may reduce the grant to four lakhs. That means to say that it goes against its own orders, and against the existing statute without repealing that statute. The power to cut down grants is always there because you can always repeal that statute, and that is a much more drastic power than that of interfering with the budget which has been framed according to the wishes of the House.

Now, Sir, Mr. Humayun Kabir and Mr. Naresh Nath Mookerjee seem to think that we are conferring a special favour on the Dacca University under this Bill, and have referred to what they call discrimination as between the Dacca University and the Calcutta University. I submit, Sir, there has been no discrimination. The Dacca University is being given Rs. 5,00,000 merely because there is provision for a five-lakh grant which is payable under a statute. If there was no such sum payable under the statute, there would have been no sum to charge. Honourable members probably know that we pay Rs. 6 lakhs to the Dacca University, Rs. 5 lakhs under the statute and Rs. 1 lakh more under an arrangement that we have made with the Dacca University for paying Rs. 1 lakh more for ten years. Now, that sum of Rs. 1 lakh which we have agreed to pay to the University for ten years is not charged; that remains voted, and all your criticisms against the Dacca University can be levelled when you consider that one lakh grant. Therefore, you have noticed that not the entire grant which is paid to the Dacca University is being charged but only that which is secured by the statute. If the grants to the Calcutta University can be secured by Statute, it will be treated in the same manner. It is somewhat unfair to say that Government discriminates between the Dacca University and the Calcutta University. It was this Government

which for the first time consolidated the grants to the Calcutta University. Up till 1937, before we took the matter up, there was a tussle between the Calcutta University and the Government year after year regarding its grants. We looked into the matter very closely and we gave to the Calcutta University a consolidated grant which made its position absolutely secure. It is that grant which we are continuing to give, and the word of Government is almost as good as any Bill; but the difference lies in the fact that until it has been set down in the form of a statute, it will remain subject to the vote of the House. I should be very glad if a good case can be made out for making the Calcutta University grant a statutory one, but, as honourable members are aware, the affairs of the Calcutta University are in a state of flux. There are many matters pending at the present moment which will affect that University, and until they are settled, it would not be possible to bring in an enactment to secure a grant to the Calcutta University.

Now, Sir, this enactment does not give to the Government a blank cheque. We only include such Act as the House itself passes, and surely it is not expected that once the House commands the Government of the day to include a certain item in the budget, it should itself vote out that grant.

Mr. PRESIDENT: The question before the House is: that the Bengal Revenue (Charged Expenditure) Bill, 1940, as passed by the Assembly, be taken into consideration.

(The motion was agreed to.)

Clauses 1 and 2.

Mr. PRESIDENT: The question before the House is: that clauses 1 and 2 stand part of the Bill.

(The motion was agreed to.)

Clause 3.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that sub-clause (*3*) of clause 3 of the Bill be omitted.

The reason why I have submitted this amendment for the consideration of the House is that I think—and I think every section of the House will agree—that the Government should be given no power to legislate without consulting the Legislature. In fact, it seems to me that this sub-clause possibly reserves to the Government the power to include and exclude any Act which they think fit, in the Schedule. If so, it will take away the rights of the Legislature. Government's power of inclusion is, of course, confined to any "appropriate" enactment. It may be difficult to interpret the expression. I do not know

what are "appropriate" enactments for the purposes of the Budget. In these circumstances, I want a clarification of the situation. In fact, I want to put to the Hon'ble Minister a specific question as to whether the Government would reserve, by this sub-clause, to themselves the power to include all sorts of enactments they please or those enactments which have already definitely charged the revenues for the payment thereof. If the Government has no power to go beyond those Acts of the Legislature which have definitely charged the revenues of the province, then there will be no difficulty; but if it is possible, by virtue of this sub-clause, to cross that line, then certainly I should think that this clause should be deleted, because such a power would be against the very principles of legislation, for to allow the Government to legislate for themselves would be to surrender the powers of the Legislature. In these circumstances, I would ask for a clarification of the issues before I would make up my mind as to my amendment.

Mr. PRESIDENT: Amendment moved: that sub-clause (*3*) of clause 3 be omitted.

Mr. HUMAYUN KABIR: Mr. President, Sir, it was very noticeable that in the speech which Mr. Suhrawardy delivered just now he answered most of the points which were mentioned by the speakers with regard to the introduction of the Bill, but very cleverly avoided all references to the points about section 3.

Mr. PRESIDENT: The reason is clear, because there is a specific amendment on the matter.

Mr. HUMAYUN KABIR: In any case, even if he reserved the reasons which have led Government to include the third clause in that particular form, we have yet to know them. The arguments which have been advanced by my honourable friend Khan Bahadur Naziruddin Ahmad seem almost unanswerable. "Or any appropriate enactment" is, as he has pointed out, a delightfully vague statement. Is this appropriateness to be determined by reference to the Schedules or can we have any enactment which can be operated by the Government of Bengal brought in under sub-clause (*3*) of clause 3 of this Bill? These are some of the misgivings which we may mention and as I was saying a moment ago, we are waiting for an answer.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, it is for the first time, I think, during the course of the last three years that I find myself in agreement with my friend, Khan Bahadur Naziruddin Ahmad. I support his motion with the hope, Sir, that he will not withdraw it.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to explain the real meaning of sub-clause (*3*) of clause 3. The real object of this sub-clause is to insert a provision so that every time Government

may not have to come up with an amending measure. Schedule 2 gives the list of Acts which require the Government to contribute certain taxes or other things realised under those Acts to certain local bodies. So, this is the list but this is not an exhaustive list, as there may be new Acts imposing fresh taxes which may be payable to other people by Government. For that reason, Sir, this power has been kept by Government so that from time to time Government may include such Acts within the Second Schedule and similarly may exclude Acts which may be repealed or done away with and no necessity for making over the money may arise. For this reason, Sir, sub-clause (*3*) has been put in the Bill. In fact, I was thinking and just suggesting to the Hon'ble Minister that a corresponding sub-section ought to have appeared as suggested by my honourable friend Mr. Ross, so that the Government might have powers to revise First Schedule also from time to time by including and excluding items showing expenditure of charged revenues of the State, because there also changes will occur and new Acts will come in and some Acts may be repealed. So, every time for correction of that Schedule Government will have to come up with an amending Bill. For this reason, Sir, I think sub-clause (*3*) is absolutely necessary and it has been rightly put in.

Mr. NARESH NATH MOOKERJEE: Sir, I am in entire agreement with Khan Bahadur Naziruddin Ahmad although I am afraid he will leave us in the lurch. The argument advanced by my friend Khan Bahadur Saiyed Muazzamuddin Hosain does not really appeal to me. It amounts to this that we should abdicate all authority, all powers to Government simply to save Government from bringing in amending Bills later. Sir, we know that Government introduce legislations quickly and hastily, without proper consideration. They sometimes have to bring in three or four amending Bills during the course of a year and if it is really necessary to exclude a certain Bill from the Schedule of this enactment or if it is necessary to include certain enactment in the Schedule, I do not think, Sir, the Legislature will object to it. The Government have had ample evidence of our good intention. The Jute Regulation (Amendment) Bill has been framed on the ideas that were put forward by the House and which were not accepted at the time. We from this side of the House gave our fullest support to it and in fact we did not move a single amendment nor made a single speech. I do feel that this is giving undue power to Government unnecessarily.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I hope that after I sufficiently explain to the House that their fears that Government propose indirectly to legislate by notification are groundless, Khan Bahadur Naziruddin Ahmad may be induced to withdraw the amendment which has been placed before the House. His real purpose was—and I feel, Sir, that his fears deserved ventilation in this House—that

Government should not in an indirect manner legislate by including new enactments and show any expenditure under those enactments as charged. We have no desire to do this. It will be for the House to legislate. The House will say that fines or receipts under such and such enactments shall be paid to the unions or to the District Board or the Local Board or to the Municipality or other local bodies or institutions and after the House has given the mandate, all that we will do will be to include the enactment in the Schedule by notification. We do not wish to increase our responsibilities and we do not wish to take away the powers of the Legislature. The word "appropriate" may be read with reference to clause 3(*1*), namely, the enactment under which monies would have been payable directly to the local body but which under the Government of India Act, 1935, is now payable to the provincial revenues. Therefore, any Act which provides that the income arising out of fees and levies should be paid to local bodies but which owing to the Act has got first to go through the channel of the provincial revenues will be an appropriate enactment. There will not be any new enactment other than what may be passed by the Legislature. That, Sir, we can guarantee.

Now, Sir, the point has been raised by Khan Bahadur Saiyed Muazzamuddin Hosain that we should have made a similar provision for the First Schedule. For instance, if the grant to the Calcutta University is consolidated in the form of a statutory enactment, why should not Government insert that by a notification in the First Schedule? Sir, this fact should rather bring home to the House that we wish to exercise our powers of notification with the greatest caution and will propose to include only those enactments which the Legislature desires should be provided for in the Budget. Now, Sir, the reason why we have not treated the First Schedule in the same manner is that after the Bill is passed, the fact whether it should be a charged expenditure or not will be mentioned in the Act itself. Consequently, it will not be necessary for us to include it in this Act by means of a notification, but should this fact be overlooked in those enactments, we shall come up with the necessary amendment.

I hope, Sir, that Khan Bahadur Naziruddin Ahmad is satisfied that Government have no desire to legislate at all but will merely carry out the wishes of the Legislature only when they are sufficiently expressed.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, in view of the undertaking which is given in clear terms and I believe from which Government cannot resile, I beg leave of the House to withdraw my amendment.

Mr. PRESIDENT: Is there any objection to leave being granted to Khan Bahadur Naziruddin Ahmad to withdraw his amendment?

Mr. LALIT CHANDRA DAS: We object, Sir.

Mr. PRESIDENT: The question before the House is the amendment of Khan Bahadur Naziruddin Ahmad: that sub-clause (*3*) of clause 3 of the Bill be omitted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 3 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that Schedule I stand part of the Bill.

(The motion was agreed to.)

Mr. NUR AHMED: Mr. President, Sir, I beg to move that at the end of the Second Schedule attached to the Bill, the following be added, namely:—

"The Bengal Primary Education Act, 1919.

The Bengal Birth and Death Registration Act, 1873.

The Bengal Vaccination Act, 1880.

The Bengal Police Act.

The Indian Petroleum Act."

Sir, it appears from clause 3 of this Bill that Government has introduced this Bill with the object of securing to local authorities the proceeds realised under the Acts as specified in the Second Schedule to this Act. I find from that Schedule that some of the enactments under which certain local bodies are now getting funds fixed by these statutes have been included in Schedule II. Of course, I am conscious of the fact that there is a sub-clause (*3*) which reserves to Government power to include in or exclude from the list; but in spite of that, I think, Government have not been kind, just and sympathetic towards the urban areas. Since the inauguration of democratic institutions in local areas, all money has been given to the rural areas to the neglect of urban areas. The urban areas do not get anything from Government, and when they make strong representations, an unwilling Government gives something only not worth mentioning. It is a fact that all the grants received from Government go to non-urban areas for the uplift of villages. Sir, I protest against this step-motherly treatment towards urban areas and against the exclusion of certain important items from Schedule II. Under the Indian Petroleum Act, Government get some money at present by way of fees from licence and it is handed to local bodies but that Act has not been included. Therefore, I have suggested the inclusion of certain enactments.

Mr. LALIT CHANDRA DAS: Sir, I rise to oppose the amendment which has just now been moved by Mr. Nur Ahmed. Under sub-clause (*3*) of clause 3, Government have just now taken power to include in or exclude from the Second Schedule any appropriate enactment. What those appropriate enactments are or should be, that will be decided by the Government after proper examination. This is not the place to examine the Bengal Primary Education Act, 1919, the Bengal Birth and Death Registration Act, 1873, the Bengal Vaccination Act, 1880, the Bengal Police Act, the Indian Petroleum Act. They may, no doubt, be appropriate Acts which should be included within Schedule II. But that should be a matter for examination by the Government. With these words, I oppose the amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, for the first time I find myself so much in agreement with Mr. Lalit Chandra Das that it is hardly necessary for me to say anything. He has expressed my views admirably. But before I sit down I would like to assure Mr. Nur Ahmed that there has been no desire on the part of Government to discriminate between urban and rural areas. Obviously, the balance of influence having shifted from the urban to the rural areas, much more attention is being paid to the welfare of the rural areas and of the masses. But I am sure that the urban areas will come by their own with such champion as Mr. Nur Ahmed to plead their cause.

Sir, I am glad that Mr. Nur Ahmed has brought some enactments to our notice. We shall have them examined and if it is found that they stand on a par with the enactments which have been brought under the Second Schedule, we shall be glad to include them in it. In view of what I have said, I hope Mr. Nur Ahmed will not press his amendment.

Mr. NARESH NATH MOOKERJEE: Sir, what Mr. Das meant to say in regard to Mr. Nur Ahmed's amendment was that without careful examination of the provisions of these enactments, we would not support their inclusion in the Schedule. Furthermore, we have made our point of view clear in the speech I made at the outset.

Sir, we are not opposing Mr. Nur Ahmed's amendment but we are opposing the principle of giving *carte blanche* to the Government.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I would not have stood up to say anything but for the gratuitous advocacy of my friend Mr. Naresh Nath Mookerjee in trying to interpret what Mr. Das has just said. I submit, Sir, that Mr. Das said what he exactly meant. He simply said that he opposed the amendment. But Mr. Mookerjee now wants the House to accept his interpretation. We are not prepared

to accept his interpretation because his interpretation really reverses what Mr. Das has said. I know Mr. Mookerjee is highly intelligent, but we also claim some amount of intelligence; and if he wants to make a positive thing negative, I submit that such an interpretation will not be accepted by the House.

Mr. NUR AHMED: Sir, in view of the assurance given by the Hon'ble Minister, I beg leave of the House to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to permit the hon'ble member to withdraw the amendment?

There being no objection, the amendment of Mr. Nur Ahmed was, by leave of the House, withdrawn.

The question before the House is: that the Second Schedule stand part of the Bill,

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that the Title and the Preamble be added to the Bill.

(The motion was agreed to.)

The Hon'ble Mr. H. S. SUHRAWARDY: I beg to move that the Bill, as settled in the Council, be passed.

Mr. PRESIDENT: Motion moved: that the Bengal Revenue (Charged Expenditure) Bill, 1940, as settled in the Council, be passed.

The question before the House is: that the Bengal Revenue (Charged Expenditure) Bill, 1940, as settled in the Council, be passed.

(The motion was agreed to.)

The Bengal Co-operative Societies Bill, 1940.

Mr. PRESIDENT: Now the House will take up the Bengal Co-operative Societies Bill, 1940, as passed by the Assembly.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I beg to move that the Bengal Co-operative Societies Bill, 1940, as passed by the Assembly, be taken into consideration.

Sir, I do not think that it is necessary for me to enter into a detailed discussion about the provisions of this Bill at this stage. But, Sir, even then I feel that I should make a few submissions to the House so that the honourable members may see the necessity of a measure of

this nature and may also see what the exact provisions of this Bill are. The Statement of Objects and Reasons which I have had the honour of submitting to the House explains clearly as to what these reasons and objects of this Bill are. I have also thought fit to add notes on some of the clauses of the Bill which seek to introduce some new measures, so that the true perspective may be appreciated and the House may be able to feel satisfied about the necessity of these particular clauses.

It is well known that so far as the co-operative movement in this country is concerned, it was practically started on the basis of the Central Act of 1904, which was subsequently amended in 1912 by the Central Legislature. The Preamble of that Act shows that it was with the object of promoting thrift and economy amongst the agriculturists, artisans and persons of limited means that the measure of 1912 was enacted. If you will look to the Preamble of the present Bill, you will be pleased to find that with the idea of promoting thrift, self-help and mutual aid among persons of moderate means with needs and interests in common so that better conditions of living and better methods of production and business may thereby result, the scope of the movement have been amply expanded. The idea is that all facilities should be given to those who are interested in the movement for developing it. From that point of view, provisions have been made in this Bill so that the indigenous organisations started by non-officials may get proper facilities for further development; and whenever there is anything wrong, they would be guided along proper lines so that mistakes may be checked and facilities provided for healthy development. I submit further that this Bill has been based upon the experience of the working of the co-operative institutions in this province for over 30 years.

With the formation of the new Government in this province in 1937, the difficulties of the various societies run under the Co-operative Societies Act, 1912, were brought to light. In point of fact, we began with difficulties before us and these things were taken into consideration by the Government in framing the provisions of the Bill. They had also had the benefit of definite proposals being placed before them from the public for the purpose of removing those difficulties and also for the purpose of making such provisions in the Bill as would be free from difficulties and would enable the Societies to work properly and on a sound basis. With these proposals and with the experience gained the Bill was drafted. But before it was placed before the other House, I thought it fit to take the advice of at least some of the non-official gentlemen who have taken a very great interest in this movement and from that point of view I thought it my duty to have a conference with those non-official gentlemen. The conference met in February, 1938. We had very detailed discussion for two days and in the light of the suggestions made at that conference, some of the provisions which

were originally drafted were changed and the Bill was modified. From that time onwards, I have also had the honour of attending various conferences of co-operators in different parts of the province. In point of fact, before the Bill was published on the 7th July, 1938, I had the honour of opening two different conferences in the province, one in April, 1938—Chittagong Divisional Conference at Comilla and the other at Jamalpur—Dacca Divisional Co-operative Conference on the 1st July. Although the provisions of the Bill were not placed before them, they expressed difficulties that they had been experiencing and suggested that some legislative measures were absolutely necessary to deal with the difficulties.

Then, Sir, the Bill was published in the Gazette on the 7th July, 1938, and it was placed before the other House on the 3rd August, 1938. It was then referred to a Select Committee by that House. I may say, Sir, that the Select Committee of that House took very great pains; they took nearly two years over this Bill and worked for 41 working days. As a result of all these deliberations, the Bill underwent a very great change and it was thereafter taken to the other House. It was by the pleasure of the other House that the Bill was passed by them the other day.

After that it was my proud privilege to place it before this House on the 12th August last. Now, it is before this House for its consideration. Before I go further into its early history, I think it is my duty at this stage also to place a few of the provisions before this House so that whatever apprehension or nervousness there may be still lingering may be removed.

As I have submitted in the beginning, I have placed before this House a copy of the Statement of Objects and Reasons. If honourable members would be good enough to look to page 2 of that little booklet, it will appear clearly to them as to what the new provisions made in this Bill are. Provisions have been made to delegate the powers of the Registrar to well-managed financing Banks and Federations; to obtain financial assistance from State directly or indirectly; to improve the finances of the movement by suitable restrictions on the grant of loans; to facilitate the collection of dues of co-operative societies by the summary process prescribed by the Bengal Public Demands Recovery Act, 1913; to prevent fraudulent disposal of property by a borrowing member pending dispute or liquidation; to make audit more thorough and effective; to ensure utilization of the loan for the purpose for which it has been advanced; to obtain accurate information regarding the assets and liabilities of the borrowing members as a safeguard against over-financing; to reconstitute or to supersede a Committee of Management for persistent mismanagement as an intermediate stage between normal working and liquidation in order to give the society an opportunity to improve its working. Sir, I need not dilate further

the provisions are there. I submit with all respect to the House that this is a clear improvement upon the original Act of 1912 and as I have said, it is based upon experience of the working of this movement in this province for over 30 years.

Sir, I do not think I should go into further details but to remove some little misapprehension lingering in the minds of some of my honourable friends, I might indicate at this stage that they may be thinking that a very great power has been given to the Registrar. Sir, I submit with all respect that it is necessary, because, as I have submitted twice, it has been based upon experience. If you want to make somebody responsible, it only follows as a matter of course that that somebody must be vested with some powers by the Legislature. But, if that power is abused or misused, there is always the right of appeal given to the aggrieved party. If it is a question of internal administration, the appeal lies to the next higher authority. If it is a question of penalty, the appeal lies to the District Judge. I submit, therefore, that there cannot be any the least apprehension from that point of view with regard to this Bill.

Sir, with these few words, I commend my motion to the acceptance of this House.

Mr. PRESIDENT: Motion moved: that the Bengal Co-operative Societies Bill, 1940, as passed by the Assembly, be taken into consideration.

Mr. SHRISH CHANDRA CHAKRAVERTI: Mr. President, Sir, I beg to move that the Bengal Co-operative Societies Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. Mukunda Behary Mullick,
(2) Mr. W. B. G. Laidlaw,
(3) Mr. Naresh Nath Mookerjee.
(4) Mr. Bankim Chandra Datta,
(5) Mr. Amulyadhone Roy,
(6) Rai Manmatha Nath Bose Bahadur,
(7) Mr. Mesbahuddin Ahmed,
(8) Khan Bahadur Alhadj Khwaja Mohammad Esmail,
(9) Maulana Muhammad Akrum Khan,
(10) Mr. Nur Ahmed, and
(11) the mover,

with instructions to submit their report by the 30th November, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, in support of my motion I beg to say that this Bill is a very important measure and that it involves several points which require close and careful consideration by the members of this House. The past activities of the previous Governments in this direction met with disaster. The present Government is trying to improve upon the same, but it was essential that the Bill should be presented in such a form as to better the condition of the people for whom it is intended. I have also heard the Hon'ble Minister and I think that it will be much better if this Bill is allowed to go to the Select Committee so that the members may have a chance to go into its provisions more carefully. The Select Committee will also afford greater chance of coming to an agreement on the points on which there might not be much difference. With these words, Sir, I commend my motion to the acceptance of this House.

Mr. PRESIDENT: Motion moved: that the Bengal Co-operative Societies Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. Mukunda Behary Mullick,
(2) Mr. W. B. G. Laidlaw,
(3) Mr. Naresh Nath Mookerjee,
(4) Mr. Bankim Chandra Datta,
(5) Mr. Amulyadhone Roy,
(6) Rai Mamantha Nath Bose Bahadur,
(7) Mr. Mesbahuddin Ahmed,
(8) Khan Bahadur Alhadj Khwaja Mohammad Esmail,
(9) Maulana Muhammad Akrum Khan,
(10) Mr. Nur Ahmed, and
(11) the mover,

with instructions to submit their report by the 30th November, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Mr. DHIRENDRA LAL BARUA: Sir, I rise to oppose the motion for reference of the Bill to a Select Committee. The Hon'ble Minister in charge of Co-operative Credit and Rural Indebtedness has placed the Bill before the House for consideration. During its passage through the Lower House it was considered section by section and it is now before us for final consideration in the form in which it was passed by the Lower House. The honourable members of this House had time enough to make up their mind as to its various provisions. If any honourable member of the Upper House finds it difficult either to accept the Bill as a whole or any of its provisions, he may move the House either for its rejection *in toto* or for the amendment of the particular section or sections to which he cannot agree. In my opinion,

we shall gain nothing substantial by referring the Bill to a Select Committee. The manner in which the co-operative societies have been or are being managed in all parts of Bengal is thoroughly unsatisfactory. An early remedy of the defects in the existing Act governing the affairs of the co-operative societies has been long delayed. If we are to do anything to remedy the defects in the present Act which stand in the way of the proper functioning co-operative organisations in the province, let us do it here and now without any further loss of time. I think the honourable members in this House will agree with me when I say that to leave the existing co-operative banks and societies to reach their doom without any official interference and assistance in the management of their affairs is an evil which should not be allowed to continue any further. On the other hand, too much of official centralisation of the voluntary co-operative activities may equally prove to be an evil. But things have come to such a pass that the course of wisdom will be to choose between these two evils. But without meaning any suppression of the free opinion of the House to which we belong, all that I humbly suggest is that the Bill be considered, item by item, if necessary, in the House without referring it to a Select Committee.

Rai Sahib JOGENDRA NATH RAY: Sir, on the whole I support this Bill. Indeed, a Bill like this is overdue. I congratulate the Hon'ble Minister in charge of the Bill for the courageous stand that he has taken in sponsoring this Bill. The need of co-operative societies in our economic and social life cannot be over-estimated. As it has been said in the Statement of Objects and Reasons, the Act of 1912 is now quite out of date and the innumerable societies that have grown up throughout the country almost like mushrooms, require to be governed, managed and controlled by sounder and stricter provisions of law. The Bill contains these provisions. The Select Committee's recommendation to include "persons of moderate means", in the category of the society's membership is quite a happy one. But I am of opinion that in order to avoid future difficulties, the words "moderate means" should be more precisely defined. The provision for strict control over the societies' committees of management and the members thereof, for the granting of loans and realisation of the overdue debts, for the proper scrutiny of the soundness of the securities, etc., and lastly the penal provisions of the Bill will exercise quite an effective control over the societies' activities which have, of late, been so seriously hampered by abuses and malpractices.

The Registrar has been given almost unlimited power over the societies' activities and objection may be very properly taken with regard to the authority of the Registrar. But to avoid these apprehensions regarding the possible misuse of the Registrar's power, provisions have been made in the Bill for preferring appeals to the

Government. While, therefore, supporting the provisions of the Bill almost *in toto*, I must object to clause 127 (now clause 132) which takes away all the activities of the societies from the purview of the judicial control. The necessity for a judicial decision and judicial control, at least as a final revisional authority over the activities of such important public bodies like the societies, is realised by all. A provision for having the judicial courts as the ultimate court of appeal will tend to remove all future charges of possible partiality or abuses on the part of the Government and will raise these bodies in public esteem. It is a matter of common knowledge how the absence of proper judicial control over the activities of the Debt Settlement Boards have been the subject of much criticism in the Press as well as the cause of much hardship to the public. The Bill contains legal provisions and deals with matters which require expert knowledge. There are also the penal provisions. The defect arising from the complete absence of judicial authority over the activities of the societies will add to these drawbacks in the Bill. I think all these points require mature deliberation in a cool moment which is only possible if the Bill be referred to a Select Committee. I, therefore, support the proposal for referring the Bill to a Select Committee.

Rai BROJENDRA MOHAN MAITRA Bahadur: Mr. President, Sir, I rise to support the motion moved by my friend Mr. Shrish Chandra Chakraverti.

This Bill forebodes the impending danger that awaits the co-operative movement of this province. The Government by the introduction of this Bill has intended to rectify the drawbacks of 1912 Act, but from the perusal of its provisions it seems that they have carefully arranged to tighten the official control over the co-operative organisations of the province making the matter worse and complicated. Without trying to find out any effective formula with a view to rectifying defects, as have been pointed out by the Hon'ble Minister in charge in the preamble, the Government under the plea of better administration have wilfully snatched away almost all the powers from the hands of non-official members. During the Viceroyalty of Lord Curzon when the Co-operative Societies Act was passed at the initiative of the Government, it was based on some principles. Among its various objects one was to foster the spirit of self-reliance and promote thrift and mutual aid among the people. It also aimed at the preservation of the autonomous character of those business concerns. In a word, it was intended for the development of co-operative movement on the basis of democracy. In the amended form of the Act of 1912, those principles were left undisturbed by official intervention. But in this Bill, which is of a most reactionary character, the Registrar has been armed to the teeth with dictatorial powers which have, contrary to the declared intention of the Government in 1904, destroyed the very objective of co-operative

societies. The Government should remember that the success of co-operative movement solely depends upon the basis of co-operative education and that must be conducted not on bureaucratic but on democratic lines. If the Government think that the official tutelege will improve the general condition of co-operative organisations, they are living in a fool's paradise. Contrary to their expectation, the reverse will be the case. No person of independent spirit will show any sympathy with the movement at the risk of their self-respect. The sense of responsibility among non-official co-operative workers will dwindle away so much so that it will retard to a great extent the healthy development of societies. Until and unless attempts are made to remove the retrograde provisions from the Bill and free scope is given to non-official members, all hopes of preventing the societies from being deteriorated will be frustrated. Frequent official interference is bound to create obstacles in the path of smooth and progressive working of co-operative institutions. Another drawback of this tightening of official grip is that while the affairs of these organisations will be controlled at the dictation of the Government, the responsibility in cases of maladministration will entirely fall upon the shoulder of non-official members. I warn the Government to be cautious against this. They should come to their senses in time in curtailing the wide powers that have been proposed to be vested in the Registrar. The extent of these powers can be better understood when it is remembered that out of 139 clauses of the Bill, about 60 clauses give powers to the Registrar by express provisions.

Regarding audit, I am strongly of opinion that it should be separated from the departmental control. It is no doubt admitted by all that the appointment of an efficient audit staff is essential for preventing the possibilities of defalcation of public money and as such that staff should be independent of the Co-operative Department. Otherwise, it is not unnatural that auditors for fear of incurring displeasure of their superior officers may refrain from bringing to light the defects in administration. I quote here the opinion of Rai Bahadur N. N. Mookerjee, O.B.E., who has long been associated with co-operative movement.

"Audit is one of the most important aspects to which we must give very serious thought. Hitherto the Registrar was responsible for the audit of the co-operative institutions. The Registrar combines in himself the powers of organisation, registration, supervision, liquidation and also audit. On principle, it is not sound. I would, therefore, take the audit out of the hand of the Registrar and place it under the Accountant-General, Bengal. I am not quite sure, if audit of 18 or 19 thousand primary societies would be possible by the Accountant-General, Bengal. If not, they may be left with the Registrar for audit for the present, but so far as the audit of the Provincial Co-operative Bank and Central Banks are concerned, they may very well be audited by a staff under the Accountant-General, Bengal. The present auditing

staff under the Registrar for these institutions might be transferred to the control of the Accountant-General, Bengal, without involving any additional cost in this connection. That would really be independent audit of the institutions which would command confidence in the mind of the public, in the co-operative institutions. This reform has been insisted upon in several general meetings and conferences of the representatives of the co-operative societies."

I think the Bill suffers from a very fundamental defect in that it insists upon unlimited liability on the part of the members of the primary rural societies. The primary societies from the foundation on which the whole super-structure of the co-operative movement rests and it is of the utmost importance therefore to dispassionately consider the effects of unlimited liability on the future development of the co-operative movement. The experience of other countries, *e.g.*, Holland, France, Japan, Finland, Denmark, points to the fact that though there the movement began with unlimited liability they have been forced to change the form of liability and as a result, the tendency in these countries has been to substitute limited for unlimited liability. If we come nearer home, we find also the same thing—United Provinces has been seriously thinking of changing the form of liability. Madras Committee on co-operation has definitely come to the conclusion that the liability of a society whose primary object is the creation of funds to be lent to its members and of which the majority of members are agriculturists, shall ordinarily be limited.

It is needless to go further into details. I am definitely of opinion that true co-operation can only be developed from within. Departmental intervention will only strike at the root of good internal management of the working of societies and hamper the progress of the movement. As such the Bill, as proposed should be modified before its being passed into law.

Mr. KAMINI KUMAR DUTTA: Sir, I rise in support of the motion of Mr. Chakraverti for referring the Bill to a Select Committee. At this stage I will not enter into any discussion of the details as to the various provisions of the Bill. It might be contended that objections to the provisions in the Bill might well be raised in the form of amendments when the Bill will be considered in this House; but it cannot be gainsaid, and it must be admitted, that in the course of the debate various points will arise which are not and cannot be anticipated by all the members or by every member. On the other hand, we will be more free to suggest amendments in the course of discussion in the Select Committee, as there is more room for free discussion and there is ample scope for making suitable amendments.

As to this particular Bill, I can say without hesitation that my party wants that a real Co-operative Act should come into operation and that it is very sorely needed on account of the present condition of the

societies. There is no question that the Bill is urgently needed. But looking to the Bill it seems to me that the Bill is more like a penal measure than an economic measure. It seems to me that those who are responsible for the initiation of the Bill are very much obsessed with the idea of making compulsory provisions for the realisation of the dues of the societies because of the past failure of the movement. The past failure of the movement has created a very painful impression as to whether this movement will succeed or not in future. But we must not be disappointed about what has happened: we must chalk out a path for the real development of the movement: we must be determined to make the co-operative movement a success. Unless the movement succeeds, it is impossible to make any provision for securing credit in the rural area. The whole credit in the rural area has been stifled: it is almost dead and to my mind it seems that the Co-operative Act is the only door open for reviving the credit in the rural areas.

Now, Sir, reverting to what I was going to say about sending the Bill to the Select Committee, I may say that in the Select Committee we are not only in a position to consider the various provisions of the Bill but also we are competent to take evidence of experts and outsiders. I am of opinion that evidence ought to be taken as to why this movement has failed and how a real co-operative movement can be started in this province. I can assure you, Sir, that a penal measure would not make the Bill a success. Real co-operative spirit should be generated in the people and if you have penal measures, you cannot do that. So, we have got to go to the root in order to ascertain why this movement has failed and what steps should be taken so that we may start a healthy movement for providing credit in the rural areas and for generating real co-operative spirit in the people. For that, simply making this provision or that provision will not do. We shall have to go to the very root and have to take evidence of the people and ascertain why this movement has failed and what should be the remedy.

Sir, I would appeal to the initiators of the Bill and to all my friends in this House that this measure is of very great importance to the country and that time is no question here. It is not necessary for us to hurry through a measure like this. It will be necessary for us to take full evidence on the matter and investigate thoroughly into the causes of its failure and find out the means for effecting real improvement in the conditions of the societies, so that the credit movement may prosper. So, I appeal to my friends and colleagues to support the motion for referring the Bill to Select Committee so that we may fully thrash out the various provisions of the Bill after making a thorough investigation into the causes of failure in the past and finding out means for developing a really healthy movement in the rural areas. With these words, I support the motion for referring the Bill to Select Committee.

Mr. W. F. SCOTT-KERR: Mr. President, Sir, I rise to oppose the motion for reference to a Select Committee of this Bill, for the reason, amongst others, that it had been before a Select Committee for about two years during which time the reasons for the failure of the co-operative movement in the country have been thoroughly thrashed out. The Bill, as it has come to us here, is designed to remedy all the defects that have been brought to the notice of that Select Committee. The criticism against the Bill chiefly runs into the channel that interference with the co-operative movement by officials is likely to strangle the movement rather effectively, but against that it must be realised that the present co-operative movement is in a chaotic condition, and that it will become worse if it is allowed to go on as it is at present. The accumulation of debts is rapidly rising, and this is due to mal-administration and general lack of supervision running through all these societies. And it is with that situation that this Bill is intended to deal. I do not propose to say more but I would remind the members of the Opposition that the points they have raised have already been thrashed out, as I have said, over the past two years. Therefore, it hardly seems necessary to start all over again.

Then, Sir, one of the main points raised is that this Bill is more or less a penal measure. To that, my answer is that there is always a right of appeal from the findings of the Registrar. This will not cause any hardship on the members of co-operative societies, provided such societies are run in accordance with the terms of the rules laid down in this Bill. So, for that reason, Sir, I do not think it is necessary to refer the Bill to a Select Committee and we on this side of the House support the motion for consideration.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to support the motion for consideration and oppose the motion for sending the Bill to a Select Committee. My reasons are these. As has been just now said by Mr. Scott-Kerr, the Bill has received full and detailed consideration by the public, by the various co-operative bodies, by the department and by the Assembly. The Assembly has taken two full years to hammer out the Bill as the result of which the broad features of the Bill have been settled and I believe the entire province is of one mind about them. Now, the question is: what are we to do? Having impliedly accepted the broad outlines, Mr. Chakraverti seems to think that there is yet room for hesitation and that hesitation could be settled only in the Select Committee. But after hearing the speeches in support of his motion it seems to me that their objections are not confined to the details but go much deeper and affect the fundamental features and the very scheme of the Bill. Mr. Kamini Kumar Dutta, the leader of the Congress Party, thinks that we should take evidence in the Select Committee. Whatever suggestion comes from Mr. Kamini Kumar Dutta is always entitled to our highest respect, but I submit if we go

through a course of investigation in a Select Committee we will be delaying the matter indefinitely. The Bill is overdue and the matter, I submit, is extremely urgent. Rural credit is gone and shattered. (Mr. RANAJIT PAL CHAUDHURI: Who is to blame?) I think the blame lies with the richer classes—the class to which my friend Mr. Pal Chaudhuri belongs. I do not impute anything to him personally, but a few members of his class—the richer class—is more or less—perhaps honestly and unconsciously—responsible for bringing about so much poverty among the people. It is the unscrupulous money-lenders, the exacting landlords—not all landlords—and men of that type and some unscrupulous businessmen, who are to blame. These factors have ruined the tenantry in the villages and rural credit is gone, no matter whose fault it might be. The situation was degenerating for a long time and now the inevitable crash has come It is however no use indulging in a *post-mortem* examination into the causes. The point which I was driving at, when I was interrupted, was that the Bill is overdue and should be passed at once and we should not waste our time to find out the causes which have led to this chaotic condition. I believe quick action is necessary; otherwise, the agonies of the people will be needlessly prolonged.

Now, Sir, why has the co-operative movement failed? We know the broad reasons. The movement has failed, firstly, because the societies have been over-financed. In fact, loans have been freely granted to societies beyond their paying capacities, and much beyond their needs. Indiscriminate grant of loans has been the rule. Secondly, one great economic factor has contributed towards its rapid downfall and it is that the land value has very rapidly depreciated within the last few years. This has heightened the effect of the first cause and has intensified the indebtedness amongst the people and most people have become practically insolvent. Now, the combined effect of this over-financing and this depreciation of the land values is that the co-operative movement has become absolutely top-heavy. The entire movement is burdened with debts, with inefficiency, with fraud, with corruption and various other concommitant evils. Now, what are we to do? Are we now to quietly sit down and begin to take evidence as to the causes and wait and philosophise on the various possible causes and sources of the downfall or are we to take the known situation, to which the entire province has been brought, as our starting point and devote our energies to devise and apply the remedy at once leaving philosophical inquiries for later research? I submit, Sir, that we should confine ourselves to the remedy which the Bill attempts broadly to supply.

Now, Sir, the so-called objectionable feature, as has been very rightly pointed out by Mr. Scott-Kerr, consists in the fear of official interference. I believe there is interference and at the same time there

is non-interference,—interference with bad societies which are heading for a fall and freedom and autonomy for societies which are working on better lines. To be exact, a system of rewards and punishments have been provided for in the Bill. In fact, complete freedom and even some power to control subordinate societies have been given to good Central Banks and other bigger organizations where it may be proved that they are working satisfactorily. But where inefficiency or fraud are proved, some Government interference has been provided for. I believe, Sir, that both liberal rewards and drastic punishments are necessary. Though the societies have been working for about 30 years, the movement has failed and some new blood should be injected and new life infused. We have the experience of 30 years and the evidence of a large number of co-operative bodies and co-operative workers before us. The Co-operative Department under its able Registrar has sifted and digested this vast material. They have a unique experience and they have evolved a scheme, and the Bill is the result. I submit, Sir, that in the absence of any other scheme or any other better scheme we should give this scheme a chance. Let us see whether it succeeds; let us see whether Government interference improves matters or whether we should make relaxations. Experience alone can say that. But we should not allow the situation to drift any farther.

Now, with regard to the extent of corruption and inefficiency prevailing in the societies, I think the matter is an open secret and a matter of public knowledge. This sort of corruption and inefficiency should be stopped and this can be best done by Government interference. I believe that in administering the penal provisions the department will be guided by careful considerations. That they will apply the penal provisions with great deal of caution, I have not the least doubt. This department is one of the most humane departments of the Government. They are always ready to co-operate with the people and if the public come forward with the same amount of co-operation and service, the Government interference would be reduced to a minimum. There should be some fear which should work in the mind of the people. As matters stand at present, even in case of mal-administration and malpractices, Government cannot interfere and that makes the Government absolutely helpless and takes away from the movement any fear of punishment for misconduct. On the whole, Sir, I submit that the Bill has been framed on correct lines.

With regard to matters of detail, we have suggestions of a drafting nature which could be settled on the floor of the House. Now, if we take the matter to a Select Committee, the work cannot be finished during the current session; it will be carried to the next session and in the meantime credit will go down farther and farther, and any attempt to improve or rally forces will be too late. In these circumstances, I submit that we should proceed as quickly as possible, though in considering the clauses of the Bill we should proceed as slowly and as cautiously

as possible. So far as we are concerned, we are working very hard. There are two experienced retired officials among us who have considerable experience of the working of the department. There are lawyers of great repute in the Congress Benches and on a constructive Bill like this if we put our heads together, I think we can easily improve the drafting and remove the defects. As to its possible practical difficulties, it would be a matter of experience and as we acquire experience we may smooth out the practical difficulties that may be disclosed.

With these words, Sir, I support the motion for consideration of the Bill on the floor of the House and oppose the motion for its reference to the Select Committee.

Khan Bahadur ATAUR RAHMAN: Mr. President, Sir, I would have certainly supported the motion of Mr. Chakraverti for referring the Bill to a Select Committee if unfortunately or fortunately I had not some experience of the working of this department. Sir, 22 years ago, I was in this department and at a conference I pressed these subjects, these so-called penal clauses, which have been inserted in this Bill for being passed into law although on that occasion even by the bureaucratic officers I was opposed. Now I find that after a lapse of quarter of a century the present representatives of Government have realised that such controlling power is necessary for the officers who are in charge of the department. My friends on the other side are forgetting that the co-operative movement is a business proposition and that it cannot be run only by idealism. Sir, I know it for a fact that even very respectable men with high titles and high position in the society committed fraud and even burnt the records of co-operative societies, and that some even committed suicide after embezzling money. These things could not be checked without some control. The present Act has been in operation from 1904. The first Act was passed in 1904; in 1912 it was amended and the movement was extended beyond the credit. So far the movement has not been a success. Dishonesty and mismanagement by the members are one of the causes. There are various other causes and the most important is the economic cause. Unless the root cause is removed, the agriculturist will not be benefited by such measures. Moreover, the material with which the department is to work is not fit enough to carry on this work. Until our people are fit for co-operation, it is impossible to infuse a spirit of co-operation in them and for that reason some missionary work is necessary. At the same time, to safeguard the investors' money there must be some check. The present Bill of course is not an ideal one. I have gone through the whole Bill several times, but I find that the preamble is altogether different from the sections embodied in the Bill. But still I must support it because I think that we might give it a chance. A quarter of a century has passed without much success with the old

Act. So, let us give this one chance and I do not think that we shall be able to make much improvement by sending it to the Select Committee. So, it is needless to send it to a Select Committee.

With these words, Sir, I support the motion for consideration.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Mr. President, Sir, I have listened with very great attention to the debate that has been raised over this motion of my honourable friend Mr. Chakraverti suggesting that the Bill should be referred to a Select Committee. Sir, no less than 7 or 8 of my honourable friends have taken part in this debate. After what Khan Bahadur Ataur Rahman has said and after what my friends Khan Bahadur Naziruddin Ahmad and Mr. Dhirendra Lall Barua have said in opposition to Mr. Chakravertie's motion and in support of my motion, there is very little for me to reply to the suggestion made by some of my honourable friends asking that the Bill should be referred to a Select Committee.

So far as my friend, Mr. Shrish Chandra Chakraverti is concerned, he has said that the Select Committee is the only place where he can think of properly and effectively expressing his views, and that if there be any difference there, they might try and come to an agreement. When my esteemed friend suggests that the Bill should be referred to a Select Committee, I take it that the principles of the Bill have been agreed to. Indeed so far as that is concerned, I think, no objection has been raised by any of the honourable members who have taken part in this debate. My esteemed friend, Mr. Kamini Kumar Dutta, has said that a Bill of this nature is necessary, but he maintains that there is room for improvement which, in his opinion can be accomplished best by further discussion round the table. He goes further and says that he would like to have further opportunity to examine some experts of the co-operative movement. Need I assure him at this stage that when the Bill was referred to a Select Committee of the other House it was thought necessary to take the opinion of some of the individual experts as also that of some expert organisations, namely, the Bengal Provincial Co-operative Bank and other non-official organisations as also individuals like the Minto Professor of the Calcutta University, the Professor of Economics, Dacca University, the Professor of Economics, Islamia College, Calcutta. They were good enough to send on to us their views. I may inform the House at this stage that although it was not possible to accept all the suggestions offered by them, those suggestions were examined and were, as far as practicable, accepted. So far as my friend's suggestion, however, is concerned, I think, there is hardly any necessity for our taking further evidence.

My friend, Rai Sahib J. N. Ray, while supporting the motion for reference to a Select Committee, has congratulated Government on bringing forward a Bill of this nature which, according to him, is

necessary. He only suggests that something should be done when the matter comes before the House and asks why it was not possible for the other House to make it more explicit. I submit that this is not the occasion when I should enter into that matter.

Some of my friends have expressed an apprehension about some of the powers proposed to be given to the Registrar, but, Sir, some of my other friends in reply to that have shown that such powers are necessary.

Khan Bahadur Ataur Rahman with his long experience of the department knows that he it was who made some of the suggestions contained in this Bill which, he says, were not accepted by the previous bureaucratic Government. I should like to refer him to my other friend sitting by him who was an officer also of this department for years and who contends that nothing led the previous Government to take such action as this. I submit, Sir, that is no reason why this Government should not be given a chance. Certainly, this Government deserves better treatment and encouragement from that point of view and in case mistakes creep in, Government may have a chance to correct them. Mr. Roy has asked why civil courts should be debarred from dealing with disputed matters. If he looks to the relevant clause 132, he will find that it is contemplated in these cases to refer the disputes to civil courts. I would appeal to him to examine afresh the provisions contained in this Bill and then to say whether a decision arrived at by the Registrar can at all be made the subject-matter of discussion in a civil court. So far as the internal administration of a society is concerned, if you place matters of this nature before a civil court, the latter will take a long time which would mean that the society will have to be given a decent burial.

I would now refer to the points raised by Rai Bahadur Brojendra Mohan Maitra. I submit that these are the very matters which were agitated in the other House. So far as the question of separation of audit from general administration is concerned, I submit that it is not a practical proposition to suggest that the audit should be taken away from the Registrar's control altogether and placed under an independent authority. But I can assure him, however, that so far as the Provincial Co-operative Bank and Central Banks are concerned, they are absolutely outside the general administration of the department. There is provision for a special staff for this purpose. We have placed 50 officers in charge of the audit work of these Banks who work under the Chief Auditor. The latter officer is no doubt under the control of the Registrar, but he and his staff have nothing to do with the general administration of the societies. I would cite here the case of Railway Co-operative Societies. They are audited by independent bodies like Chartered Accountants and others. I submit, therefore, that the question is not one of placing the audit under an independent charge, but it is one of improving the internal administration of the system

so that when a mistake creeps in, it can be corrected. We want to see that no room is left to anybody to repeat the mistake, either intentionally or unintentionally.

As regards the character of societies, I would appeal to my friends who have some experience of village societies to consider whether they should have the character of a limited liability concern. If you do so, you will find that such limited village societies will be absolutely without any fund for no investor will help any such society with limited liabilities. There is a provision that if a society performs its duties satisfactorily, it can be changed into a society with limited liability, but to start with, we cannot have these village societies with limited liabilities. Their liabilites must be of an unlimited character; otherwise, they would frighten away all the investors and money would not be forthcoming for the proper functioning of such societies.

Mr. Scott-Kerr has been good enough to point out that the Bill has been before the public for over two years now. In fact, the Bill was first published on the 7th July, 1938, and to all my honourable friends in this House and outside who are interested in co-operative matters it was open to offer their help and concrete suggestions either to Government or to the Select Committee of the other House. I submit that we have left no stone unturned to improve the provisions contained in this Bill, and now if we fail to give effect to it at a very early date, it will not be possible to raise the co-operative movement from its present helpless condition. I beg of this House, therefore, to offer us their best assistance in piloting this Bill through this House with a view to making the co-operative movement in Bengal a success.

With these words, Sir, I oppose the amendment of my friend, Mr. Chakraverti.

Mr. PRESIDENT: The question before the House is: that the Bengal Co-operative Societies Bill, 1940, be referred to a Select Committee consisting of—

The Hon'ble Mr. Mukunda Behary Mullick, Minister in charge of the Co-operative Credit and Rural Indebtedness Department,

Mr. W. B. G. Laidlaw,

Mr. Naresh Nath Mookerjee,

Mr. Bankim Chandra Datta,

Mr. Amulyadhone Roy,

Rai Manmatha Nath Bose Bahadur,

Mr. Mesbahuddin Ahmed,

Khan Bahadur Alhadj Khwaja Md. Ismail,
Maulana Muhammad Akram Khan,
Mr. Nur Ahmad, and
the mover,

with instructions to submit their report by the 30th November, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that the Bengal Co-operative Societies Bill, 1940, be taken into consideration.

(The motion was agreed to.)

Order, order. The House stands adjourned till 2-15 p.m. on Wednesday, the 21st August.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 21st August, 1940.

Members absent.

The following members were absent from the meeting held on the 19th August, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.
(2) Rai Bahadur Manmatha Nath Bose.
(3) Mr. Humayun Reza Chowdhury.
(4) Mr. Bankim Chandra Dutt.
(5) Mr. Narendra Chandra Datta.
(6) Khan Bahadur Alhadj Khwaja Muhammad Esmail.
(7) Mr. Mohamed Hossain.
(8) Maulana Muhammad Akram Khan.
(9) Mr. W. B. G. Laidlaw.
(10) Sir T. Lamb.
(11) Dr. Radhakumud Mookerji.
(12) Rai Bahadur Radhica Bhusan Roy.
(13) Khan Bahadur M. Shamsuzzoha.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 21st August, 1940, at 2-15 p.m. being the fourteenth day of the Second Session, pursuant to section 62(2)(*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Realization of War contributions.

79. Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) if it is a fact that the Presidents of Union Boards and other Government officers of different districts of Bengal have been serving poor cultivators with notice with a view to extort contributions to the War Fund;

(*b*) if so, whether such forced realization of War contributions is being done with the knowledge and connivance of the Bengal Government; and

(*c*) if not, whether the Government will take suitable steps by means of a circular that such contributions are purely voluntary and are not to be extorted from individuals?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) Some such notice might have been issued by certain Union Boards under a misapprehension.

(*b*) No.

(*c*) Such steps have already been taken.

Mr. LALIT CHANDRA DAS: Arising out of (*c*), were such steps taken by means of circular letters or confidential letters to the District Magistrates? In what form were such steps taken?

The Hon'ble Khwaja Sir NAZIMUDDIN: District Magistrates have been written to to see that no coercion or intimidation is made to realise the subscriptions. It should be on a voluntary basis entirely.

Mr. AMULYA DHONE ROY: Will the Hon'ble Minister be pleased to state whether it is a fact that one day's pension of the pension-holders is being deducted without their consent?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am not aware of that, Sir.

Mr. AMULYADHONE ROY: Will the Hon'ble Minister be pleased to state whether such things are happening in Krishnagar?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not know about that but I know that one of these gentlemen wrote a letter repudiating the allegation that any intimidation has been practised in realising such contributions.

Mr. AMULYADHONE ROY: Has the Hon'ble Minister made any enquiry with regard to this?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am not aware of any such things. If the honourable member will let me have particulars, I will certainly examine them.

Mr. AMULYA DHONE ROY: Is it not the duty of Government to collect particulars when an allegation is made?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have not come across any such allegation.

Maulvi ABUL QUASEM: Is it not the duty of members, when they make allegations, to supply particulars for the assistance of Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: I agree with Mr. Abul Quasem that it is obvious that no enquiry can be made until particulars are given.

Khan Bahadur ATAUR RAHMAN: Is not Union Board a non-official body?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes.

Khan Bahadur ATAUR RAHMAN: Can Government interfere to the extent of stopping the collection of war loans or war funds by such non-official bodies?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government are not interfering in any way with the efforts of the Union Board and I want to make it absolutely clear that Union Boards are autonomous. What we have intimated to the District Magistrates is that no kind of direct or indirect official pressure should be put on individuals or local bodies for these subscriptions but it should be entirely voluntary and that Government do expect local bodies and individuals to make efforts to realise this subscription on a voluntary basis.

Mr. LALIT CHANDRA DAS: Is it not the duty of Government to protect poor cultivators when they are coerced?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I do not see any relevancy of this question.

Mr. LALIT CHANDRA DAS: Arising out of (*a*), when the question was put by Khan Bahadur to the effect whether the autonomous body should be interfered with——

Mr. PRESIDENT: Order, order. In a question there should be no argument or inference. You are merely to put the question for eliciting further information.

Mr. LALIT CHANDRA DAS: My question is whether it is not the duty of the Government to protect the poor cultivators from coercion by Union Boards even though they are autonomous, when the Union Boards are really out to extort subscriptions from them?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, that will be against the principle of democracy.

Mr. RANAJIT PAL CHAUDHURI: Is it not the duty of Government to intervene when any act is done by misapprehension?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is just what we have done. We have intimated the District Magistrates that there should be no misapprehension on this subject.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Is it not the duty of the officers of His Majesty's Government to see that subscriptions flow into the Defence Fund?

The Hon'ble Khwaja Sir NAZIMUDDIN: Certainly, but purely on a voluntary basis.

Notice by Hon'ble Ministers in regard to non-official Bills.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Sir, I have the honour to give you notice that I desire to move in the current session of the Bengal Legislative Council the following amendment to Mr. Nur Ahmed, M.L.C.'s motion that his Bill for the amendment of the Bengal Municipal Act, 1932, be referred to a Select Committee, viz., "that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st March, 1941."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I beg to give notice of the following amendment to the motion of Khan Bahadur Saiyed Muazzamuddin Hosain, M.L.C., that the Bengal Agricultural Debtors (Amendment) Bill, 1940, be referred to a Select Committee at the session of the Council to be held on the 23rd August, 1940, viz.,

"That the Bill be circulated for the purpose of eliciting public opinion thereon by the 30th July, 1941."

GOVERNMENT BILL.

The Bengal Alluvion and Diluvion (Amendment) Bill, 1940.

Mr. PRESIDENT: The House will now take into consideration the Bengal Alluvion and Diluvion (Amendment) Bill, 1940, as passed by the Assembly.

Before I call upon the Hon'ble Minister to move his motion, I would like to draw his attention to the Statement of Objects and Reasons from which it appears that the purpose of this Bill is to fill up a lacuna in the law as regards the assessment of land revenue on re-formed lands after diluvion, *in situ*. As such, it seems to me that the Bill comes under the mischief of section 299(3) of the Government of India Act, 1935, which reads as follows:—

"No Bill or amendment making provision for the transference to public ownership of any land or for the extinguishment or *modification of rights therein, including rights or privileges in respect of land revenue,* shall be introduced or moved in in either Chamber of the local Legislature without the previous sanction of the Governor in his discretion."

It seems to me that some of the provisions in this Bill seek to modify rights in land so far as land revenue is concerned. As a matter of fact, it is admitted in the Statement of Objects and Reasons that in the law as it exists at present, although there is provision for abatement of land revenue in case of diluvion, there is no provision for assessment of land revenue on re-formed lands *in situ*, after they are washed away by

diluvion, as observed by their Lordships of the Privy Council. (Ref. C. W. N. p. 1061.) So, I appreciate the necessity of such a Bill, but at the same time, I draw your attention to the provisions of section 299(*3*) of the Government of India Act, 1935, according to which this Bill cannot be *moved in* in this Council without the previous sanction of the Governor. Of course, the Chair will have to write to His Excellency for previous sanction; but if you contend that previous sanction is not necessary, I shall be glad to hear you on the point.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, first of all, I venture to submit that Their Lordships of the Judicial Committee of the Privy Council have no doubt pointed out that there is this lacuna in this Act and that under no Statute Government can assess the revenue for re-formations *in situ*. But I do not think that anybody has got any right in land of that character. Because of a lacuna in the Act, no right has been vested in any particular person, I mean the proprietor under any Statute——

Mr. PRESIDENT: To curtail the discussion, may I ask you a question? Under the law as it is, has the Government any right to assess increased revenue for the re-formed lands *in situ* in a permanently-settled estate? Where do you get that right now? By the proposed legislation alone you will be entitled to so assess?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, hitherto, of course, these lands have been assessed as accreted lands. Now, it has been pointed out that there is a distinction between accreted lands and lands re-formed *in situ*. Their Lordships the Judges of the Privy Council have pointed out that there is no Act or Law at present under which Government can assess lands re-formed *in situ* with land revenue where abatement has already been granted.

Mr. PRESIDENT: So, under the existing law, according to the Privy Council decision, the Government have no right to assess revenue as it was held that such lands are not "added lands."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, it is not a question of their right but it is a lacuna in the law. In any case if you want to obtain the sanction of His Excellency, I think it is better to obtain it. But there is another ground for which Government are not prepared to proceed with the consideration of the Bill to-day. There is an amendment of Khan Bahadur Muazzamuddin Hosain which requires very careful consideration. It raises a very important point and Government are not in a position to come to a decision without further consideration.

Mr. PRESIDENT: I am also of opinion that some of the amendments come under the same disabilities and His Excellency the Governor's previous sanction is necessary for those amendments also. I shall refer the Bill immediately to His Excellency for his previous sanction.

The Hon'ble Khwaja Sir NAZIMUDDIN: May I submit one point? Section 299 can only come in if anybody is adversely affected by any legislation.

Mr. PRESIDENT: There is nothing about the question of affecting or modifying the rights, whether adversely or otherwise, in section 299(*3*) of the Government of India Act. The section reads as follows: "No Bill or amendment making provision for the transference to public ownership of any land, or for the extinguishment or *modification of rights therein, including rights or privileges in respect of land revenue,* shall be introduced....." The question of introduction does not arise, as the Bill comes from the other House; it is only to be moved in, and this cannot be allowed without the previous sanction of the Governor in his discretion.

The Hon'ble Khwaja Sir NAZIMUDDIN: That is what I just wanted to point out. In this particular case, the assessees were assessed, though wrongly, and we are now asking for powers to do something which was not done previously.

Mr. PRESIDENT: It may be that they have or have not been assessed in some cases but they may claim exemption, as there is no law for such assessment still.

The Hon'ble Khwaja Sir NAZIMUDDIN: But where these people were assessed they did pay increased revenue for these lands. Therefore, the only question is what we want to do under one section, you are doing under another section. Apart from that there is no change in the status or rights in the land.

Mr. PRESIDENT: The difficulty of the Chair is that because there is no law entitling Government to demand additional revenue for these re-formed lands, the Chair has to assume that they are not liable to pay that rent at present. I have considered this point carefully.

In the case of Midnapore Zemindary Co. *Vs.* the Secretary of State for India in Council (41 C.W.N. p. 1061), the Privy Council held that lands comprised in a permanently-settled estate which have been washed away and which afterwards re-formed on the original site, cannot be regarded as "added lands" and are, therefore, not liable to

fresh assessment under section 6 of the Bengal Alluvion and Diluvion Act, 1847, whether or not an abatement of *Sadar Jama* had been granted while they were under water. This immunity from fresh assessment is now sought to be taken away by the proposed Bill and also by the amendments of Khan Bahadur Naziruddin Ahmad and of Mr. Nur Ahmed. The amendments of Khan Bahadur Saiyed Muazzam-uddin Hosain go even a step further and seek to make the provisions retrospective. I am of opinion that all this clearly result in a modification of an important right in respect of land revenue enjoyed by permanently-settled estates, and that under section 299(3) of the Government of India Act, 1935, the Bill and the amendments referred to, require previous sanction of the Governor. Under Rule 6, sub-rule 2 of the Governor's Rules, I propose to refer this matter to the Governor for his previous sanction.

The House stands adjourned till 2-15 p.m. on Thursday, the 22nd August.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 22nd August, 1940.

Members Absent.

The following members were absent from the meeting held on the 21st August, 1940:—

(1) Mr. Altaf Ali.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Hamidul Huq Chowdhury.
(4) Mr. Humayun Reza Chowdhury.
(5) Mr. Narendra Chandra Datta.
(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(7) Mr. Kanai Lal Goswami.
(8) Maulana Muhammad Akram Khan.
(9) Mr. W. B. G. Laidlaw.
(10) Dr. Radha Kumud Mookerjee.

B. G. Press—1940-41—7352A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 22nd August, 1940, at 2-15 p.m. being the fifteenth day of the Second Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Appointment of persons of non-Bengali domicile under the Government of Bengal.

80. Mr. BIRENDRA KISHORE ROY CHOWDHURY: (a) Will the Hon'ble Minister in charge of the Finance Department be pleased to state the number of persons of non-Bengali domicile appointed to offices under the Government of Bengal since the 1st April, 1937?

(b) Will he be pleased to state also the name of the offices to which they have been appointed?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. H. S. Suhrawardy): The information is not readily available. Steps are being taken to collect it.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Will the Hon'ble Minister be pleased to state if he will reply again when the information will be available?

The Hon'ble Khwaja Sir NAZIMUDDIN: Certainly.

Recruitment of Bengalis to the Eastern Frontier Rifles.

81. Khan Bahadur ATAUR RAHMAN (on behalf of Mr. Hamidul Huq Chowdhury): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(a) whether the Government propose to make adequate provision against any threat to the internal security and order in this Province owing to the extension of hostilities;

(b) what steps, if any have been taken to secure civil order and security in the Province;

(c) what is the strength of the Eastern Frontier Rifles, and how it is composed;

(d) whether the force has Bengalis on it, if so, what is the proportion; if not, from what source was the recruitment made;

(e) whether the Government propose to open recruitment of the Bengalis in the Eastern Frontier Rifles; and

(f) whether the Government propose to increase immediately the Police force, specially its armed branch, by at least 10,000 recruits composed entirely of Bengalis?

Minister in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (a) Yes.

(b) Principally by—

(i) increase in the police force;

(ii) formation of civic guards in Calcutta and mufassil;

(iii) setting up of A. R. P. organisation;

(iv) declaring several places as protected areas;

(v) controlling processions and meetings; and

(vi) by restricting the use of arms and explosives.

(c) 843 consisting of 1 Commandant, 3 Assistant Commandants, 16 Subedars and Jamadars, 70 Havildars and Naiks, and 753 Sepoys.

(d) No.

(e) No.

(f) There is at present no imperative necessity for such increase of staff involving huge extra cost; but Government propose immediately to increase the Provincial Police force by 1,500 men, nearly all of whom will be Bengalis.

GOVERNMENT BILL.

The Bengal Legislature (Removal of Disqualifications Amendment) Bill, 1940.

Mr. PRESIDENT: The House will now take up the Bengal Legislature (Removal of Disqualifications Amendment) Bill, 1940.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to introduce the Bengal Legislature (Removal of Disqualifications Amendment) Bill, 1940.

Mr. PRESIDENT: The Bengal Legislature (Removal of Disqualifications Amendment) Bill, 1940, is introduced.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bill be taken into consideration.

Mr. PRESIDENT: Motion moved: that the Bengal Legislature (Removal of Disqualifications Amendment) Bill, 1940, be taken into consideration.

The question before the House is: that the Bengal Legislature (Removal of Disqualifications Amendment) Bill, 1940, be taken into consideration.

(The motion was agreed to.)

Clause 1.

Mr. PRESIDENT: The question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Clause 2.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 2 of the Bill, for the word "Bengal" occurring at the end, the word "India" be substituted.

Sir, the object of the Bill is to remove the disqualification of a member who serves in the Army for the security of Bengal. The object of my amendment is that we should remove the disqualifications of an officer when he works for the security of India. I should submit that in military matters we can hardly make a distinction between Bengal and the rest of India. Military subject in this country is an all-India subject, and also a part of the Empire scheme. We can hardly think of this subject in provincial terms. So, anybody who works anywhere for the security of India should be within the scope of this Bill and also enjoy this little exemption. It may be said that we have no right to legislate for places outside Bengal. But we are merely removing the disqualification for being or remaining a member of this House and that advantage may be enjoyed even by persons who are working outside Bengal for the benefit of India. I do not think we are going outside the provincial sphere by the change of the geographical limits of the sphere of activities of the member.

Mr. PRESIDENT: Order, order. Will it not be widening the scope of the Bill? By an amendment you can restrict the scope of a Bill but you cannot widen it.

Khan Bahadur NAZIRUDDIN AHMAD: I am afraid, possibly that is so——

Mr. PRESIDENT: Then I rule this amendment——

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, before you give your ruling may I make a submission——

Mr. PRESIDENT: Are you supporting the amendment?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes. My point is that it is considered expedient to amend the legislation for the purpose hereinafter appearing. The idea is that anybody who is going in for service in the Army, Navy or Air Forces of the country, if he happens to be a member of the provincial Legislature and enjoys remuneration for doing so, should not lose his seat in the Legislature. It is not necessary that such service should be confined only to Bengal. In one of the clauses I think, it has crept in by mistake. If his service is to be rendered in some other provinces, I do not think it widens the main object of the Bill.

Mr. PRESIDENT: I am not going into the merits of the Bill. It may be very desirable; but in deciding if the amendment is in order, the Chair is required to find out the scope of the Bill from the Preamble as well as from its clauses. From the clause under discussion, I read: "purpose connected with the maintenance of the internal security of Bengal". This clause, therefore, seeks to remove the disqualification of officers who may be engaged for any purpose connected with the maintenance of the internal security of Bengal. And now, if you try to extend the privilege to officers who may be engaged for maintenance of the internal security of India as a whole, it will be widening the scope of the Bill. The point is not that the Government had no right to use the word "India" in place of "Bengal". But in your notification of the Bill in the Gazette and in the Bill as introduced in the Council, you intended to confine the removal of disqualification only in the case of officers who might be engaged in the maintenance of the internal security of Bengal. If you now want to extend it to India, will that not be widening the scope of the Bill?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would suggest that in (*d*) (*i*) where it is stated "in time of war for any purpose whatever," there is no restriction whatsoever. The purpose of (*d*) (*ii*) is, of course, to confine the privilege only to service in Bengal. But (*d*) (*i*) is for any purpose whatsoever; and if I may again draw your attention to the Statement of Objects and Reasons, it will be clear that it is not confined to any province. The object of the Bill is stated to be to remove the disqualification which exists in clause (*b*) of section 2 of the Bengal Legislature (Removal of Disqualifications) Act of 1937. There, it is said that a person is not debarred from becoming or being a member of either Chamber of the Legislature by reason only of the fact that as a part-time member of any of His Majesty's naval, military or air forces he holds an office of profit under the Crown in India. When, however, such a member of the Legislature holds such an office as a full-time member of any of such forces, he is disqualified for being a member and his seat in the Legislature falls vacant automatically. The object of this amending Bill is to enable such a member to retain his seat in the Legislature even if he holds such an office "in time of war for any purpose or in time of peace for any purpose connected with internal security". Therefore, in the Statement of Objects and Reasons, there is no attempt to confine the service of the members of the Legislature to any particular province. The main object is to remove the disqualification of a member who holds an office of profit as a member of the armed forces of the Crown in India and who is a member of the Legislature: that is the object. The scope is that he can be a member of the armed force either in Bengal, or in the Punjab or any other part of India——

Mr. PRESIDENT: I would draw your attention to clause (*d*) (*i*) which is different from (*d*) (*ii*). (*d*) (*i*) says: "in time of war, for any purpose whatever"; but (*d*) (*ii*) says: "at any other time for any purpose connected with the maintenance of the internal security of Bengal". In (*d*) (*i*), a wider scope is given in times of war; but in (*d*) (*ii*) which deals with "any other time", it is confined to maintenance of the internal security of Bengal for which the Local Government have a special responsibility. So, the sub-clauses, as they stand, are not illogical. It is quite reasonable to legislate for wider exemption in time of war "for any purpose whatever"; but "at any other time" only for any purpose connected with the maintenance of the internal security of Bengal. So far as internal security is concerned, it is the special interest of the Local Government to see that there may not be any disability for officers who may have to work for the internal security of the province of Bengal. So, the scope of (*d*) (*ii*) is not as wide as that of (*d*)(*i*)—where, as I have pointed out, it is

restricted to "internal security for the province of Bengal". Now, if you want to substitute "India" for "Bengal", it seems that you are widening the scope of the Bill.

I have considered the point carefully and I hold that in finding out the scope of the Bill, not only the Title and the Preamble, but also the clauses should be looked into. In the Preamble, it is stated: "WHEREAS it is expedient to amend the Bengal Legislature (Removal of Disqualifications) Act, 1937, for the purposes and *in the manner hereinafter appearing*". So, even in the Preamble, stress has been laid on the clauses in order to show how the Bill is proposed to be amended. I see a clear distinction between sub-clauses (*d*) (*i*) and (*d*) (*ii*). In (*d*) (*i*) it is: "In time of war for any purpose whatever" and in (*d*) (*ii*) it is: "at any other time, for any purpose connected with the maintenance of the internal security of Bengal", for which the Local Government is specially responsible.

Considering all these points, I hold this amendment out of order.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, may I ask the Hon'ble the Home Minister a question for elucidation of one of the points? In clause (*d*) it is said "an officer of His Majesty's Air Forces in India". I do not see any reason why Burma is excluded although it is so near Chittagong and so easy to reach.

The Hon'ble Khwaja Sir NAZIMUDDIN: This will apply to a person serving in the Air Force in India and emergency may take him to Burma if he is attached to the Indian Army, for the Defence of India.

Mr. PRESIDENT: The question before the House is: that clause 2 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that the Title and the Preamble be added to the Bill.

(The motion was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move: that the Bengal Legislature (Removal of Disqualifications Amendment) Bill, 1940, as settled in the Council, be passed.

Mr. PRESIDENT: Motion moved: that the Bengal Legislature (Removal of Disqualifications Amendment) Bill, 1940, as settled in the Council, be passed.

(The motion was agreed to.)

Order, order. The House stands adjourned till 2-15 p.m. on Friday, the 23rd August.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 23rd August, 1940.

Members Absent.

The following members were absent from the meeting held on the 22nd August, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.

(2) Mr. Humayun Reza Chowdhury.

(3) Mr. Narendra Chandra Datta.

(4) Mr. Kamini Kumar Dutta.

(5) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(6) Khan Bahadur M. Abdul Karim.

(7) Maulana Muhammad Akram Khan.

(8) Mr. W. B. G. Laidlaw.

(9) Mr. Naresh Nath Mookerjee.

(10) Dr. Radha Kumud Mookerjee.

(11) Mr. W. F. Scott-Kerr.

B. G. Press—1940-41—7353A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 23rd August, 1940, at 2-15 p.m. being the sixteenth day of the Second Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Effect of the proposed extension of jute cultivation in the United Provinces on the policy of jute restriction in Bengal.

82. Mr. RANAJIT PAL CHAUDHURI (on behalf of Mr. Birendra Kishore Roy Chowdhury): (a) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state if he is aware that the Government of the United Provinces are contemplating the extension of jute cultivation in those provinces?

(b) Is he aware of the effect which such extension in the United Provinces may have on the policy of restriction of jute cultivation which the Government of Bengal has adopted in this province?

(c) Will he please state if the Government of Bengal has had any correspondence with the Government of the United Provinces in order that the policy of restriction may be pursued in full collaboration with them?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (a) I have no official information; but I have seen a press report which says that the Chambers of Commerce in the United Provinces have taken up with that Government the question of encouraging jute-growing and that the United Provinces Government have referred this matter to their Agriculture Department. It appears from the press report that the object of these representations to the United Provinces Government is to improve the quality and yield of the small quantity of jute grown in the United Provinces. The quality and yield of the United Provinces jute are both poor and the mills in that province are pressing their Government to organise schemes for instructing the growers in methods for improve both. I have no information that an extension of jute cultivation is contemplated.

(*b*) Such an extension of the poor type of jute grown in the United Provinces would be of little practical use and would have no immediate or material effect on this Government's regulation policy.

(*c*) No.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether for the purpose of protection of the legitimate interests of the *raiyats* of this province, Government will be pleased to correspond with the Government of the United Provinces in order that the policy of restriction here may be pursued in full collaboration with them?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I think such a course will be absolutely useless. So little jute is grown there that I do not think that the United Provinces Government will ever agree to co-operate or collaborate with us in a scheme of restriction. The problem of restriction of jute cultivation with them is not at all important. Therefore, I do not think that any useful purpose will be served by corresponding with the United Provinces Government.

Mr. NARESH NATH MOOKERJEE: Sir, may I have your leave to remind the Hon'ble Minister that at the time of the discussion of the original Jute Regulation Bill he had definitely stated on the floor of the House that he would also consult the Governments of Bihar and United Provinces so as to bring them into our line of action? Has anything been done in that direction?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, my friend's memory has failed him. It was not the United Provinces and the Bihar Governments which were referred to on that occasion but it was the Assam and the Bihar Governments.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, may I ask the Hon'ble Minister through you what steps have been taken with regard to restriction of jute cultivation in Bihar and what is the position of the Bihar jute crop in relation to Bengal?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, the position in Bihar is this: there appears to be very little chance of the crop being extended in that province; nevertheless we have been trying our best to secure their co-operation in a scheme of restriction. We have hitherto failed. I may inform the House that we have written to them and sent them six reminders without any response.

NON-OFFICIAL BILLS

Mr. PRESIDENT: The House will now take up Non-official Bills.

The Bengal Patni Taluks Regulation (Amendment) Bill, 1939.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Sir, I beg to move that the amendments made by the Assembly to the Bengal Patni Taluks Regulation (Amendment) Bill, 1939, as passed by the Council on the 23rd February, 1940, be taken into consideration.

Sir, the Lower House has amended clause 6 of the Bill and thereby given additional facility to the defaulting tenant. If this amendment is accepted, the defaulting tenant will get an opportunity to deposit the money even after the date of sale along with other co-sharer *patnidars*. This is in consonance with the principle of the Bill. So, it may be accepted. With these few words, Sir, I move that the amendments be taken into consideration.

Mr. PRESIDENT: Motion moved: that the amendments made by the Assembly to the Bengal Patni Taluks Regulation (Amendment) Bill, 1939, as passed by the Council on the 23rd February, 1940, be taken into consideration.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, there are certain difficulties as to the drafting of this amendment. In this matter I speak entirely for my own self and not on behalf of my Party. The difficulty which I feel is that in clause 6 of the proposed Bill it is provided that if on a sale of the share which was advertised the full money is not realised, then notices should be sent in the prescribed manner to all other co-sharer tenants. The provision in the first paragraph of the clause is that notices should be "*sent*." It is the *sending* of the notice and the *manner* of *sending* it which is dealt with in the first paragraph and the Government is empowered to provide for the *sending* of the notice. The next paragraph, however, depends entirely on a different consideration. The sale is to be held on the 21st day from the "*serving*" of the notice. While giving power by the first paragraph to the Government for arranging the "*sending*" of the notice the next step, *i.e.*, the counting of 21 days is to be made from the date not of the "sending" of the notice, but rather of the actual "service." So, we start with one standard and end in another standard——

Mr. PRESIDENT: Order, order. May I remind the honourable member that he is speaking on the merits of the amendments? Has he any objection to the motion for taking the amendments into consideration? When I take up the particular amendments, that will be the proper time for speaking on them.

Khan Bahadur NAZIRUDDIN AHMAD: No, Sir, I have no objection to the Bill being taken into consideration.

Mr. PRESIDENT: The question before the House is: that the Bengal Patni Taluks Regulation (Amendment) Bill, 1939, as amended by the Assembly, be taken into consideration.

(The motion was agreed to.)

Mr. PRESIDENT: The next motion is that the Council agrees to the amendment made by the Assembly. If there is any amendment to the amendments made by the Assembly, that is to be moved now.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I do not wish to propose any amendment, but I would rather draw the attention of the Revenue Minister to the difficulties which seem to underlie this amendment. I have already submitted that we have provided for the "sending" of the notices. But we have given up the standard thus laid down and proceed with a new standard, namely, the "service" of the notice. This date of service will be an uncertain quantity and the date of sale will also be uncertain in spite of our attempt to fix it. I simply request him to consider the matter. I cannot give final opinion in this matter, but these difficulties rather suggest themselves to my mind. I request him to consider this matter and if necessary to bring in an amending Bill later on. We have seen so many amending Bills brought forward in this House that we have grown accustomed to this method. With these words, I support the motion.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, as regards the point raised by the Khan Bahadur Sahib, this clause has been drafted on the lines of section 14 of the Revenue Sales Act. Unfortunately, I have not got a copy of the Revenue Sales Act before me, but I think we have tried to follow the language of that Act, as far as possible. Moreover, I do not see exactly much difference between the word "send" and the word "service," because it means really service. But if there is any practical difficulty, Government will certainly examine this point and try to remove that difficulty later on. On this assurance, I hope my friend will withdraw his objection and allow this Bill to go through.

Khan Bahadur NAZIRUDDIN AHMAD: In fact, I have no objection to make; I merely pointed out certain difficulties.

Mr. PRESIDENT: The question before the House is: that the Council agrees to the amendment made by the Assembly to the Bengal Patni Taluks Regulation (Amendment) Bill, 1939.

(The motion was agreed to.)

The Bengal Patni Taluks Regulation (Amendment) Bill, 1939.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, I beg to move that——

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, will there be no third reading of the Bill which we considered just how?

Mr. PRESIDENT: No.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: But, Sir, I was under the impression that there will be a third reading

Mr. PRESIDENT: May I draw your attention to sections 74 and 75 of the Bengal Legislative Council Procedure Rules? Section 74 (2) reads as follows: "Further amendments relevant to the subject-matter of the amendments made by the Assembly may be moved by any member after giving four days' notice, but no further amendment shall be moved to the Bill, unless it is consequential upon, or an alternative to, an amendment made by the Assembly."

Section 75 says: "If the Council agrees to the amendments made by the Assembly, a message intimating its agreement shall be sent to the Assembly."

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: But, Sir, it was a question of amendment——

Mr. PRESIDENT: No, no. There is no question of amendment. The Council has the right to decide whether they agree or they do not agree with the amendments made by the Assembly.

Agreement or disagreement is the only question that is placed for the consideration of the House.

Khan Sahib ABDUL HAMID CHOWDHURY: Mr. President, Sir, I beg to move that the Bengal Patni Taluks Regulation (Amendment) Bill, 1939, as reported by the Select Committee, be taken into consideration.

Sir, this Bill, originally contained 13 clauses, but in view of the fact that a similar Bill sponsored by my esteemed colleague, Khan Bahadur Rezzaqul Haider Chowdhury, which has just been passed by this House covered almost every point in the amendments proposed in my Bill, it has been limited by the Select Committee practically to one clause except the title and preamble which also has undergone some drafting change.

The only important amendment which is sought to be introduced in the Regulation by my Bill is the introduction of the system of the quarterly payment of rent instead of the existing system of monthly payment. This has been done, as noted in the report of the Select Committee, on the principle of section 67 of the Bengal Tenancy Act so as to make the Regulation self-contained. This amendment is calculated to effect appreciable improvement in the existing Regulations. With these few words, Sir, I beg to commend my Bill to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that the Bengal Patni Taluks Regulation (Amendment) Bill, 1939, as reported by the Select Committee, be taken into consideration.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I have already submitted a note of dissent to the report of the Select Committee on this Bill. You will find from that report that out of the original 13 clauses in the Bill, only one clause has been retained by the Select Committee and that clause too has undergone a thorough change. There is not a single sentence of the original clause which has been accepted by the Select Committee. Sir, this is not the first instance when an entire Bill has been recast by the Select Committee; there had been many occasions when the Select Committee had made so many changes that it was impossible to recognise the original Bill. If you look into the clauses, you will find that even the title and other minor matters have undergone very drastic changes. Only the substance of one clause has been retained, but that too will not be of any real importance for practical purposes. There the change is to the effect that instead of payment of monthly rents, payment will now be made also at the end of every three months. Therefore, although there is no change in the provision of the Bill for the alteration of monthly *kist* of rent, there is put in a provision for the payment of rent at the end of every three months, interest being chargeable from the first day of every fourth month of the agricultural

year. The result will be that when there will be no interest it is converted to a quarterly *kist*. In Western Bengal the margin of profit of the zemindar after paying the revenue is very small, and consequently when he has his tenure on the *patni*, he is forced to adopt the system of monthly *kist* so that he may be able to pay the revenue regularly. In Eastern Bengal that is not the case; there the margin of profit is high and the zemindar does not depend on the monthly *kist* and consequently the monthly *kist* of rent is not in vogue. Therefore, if the proposal be accepted, it will come, for all practical purposes to the system of quarterly *kist* which will cause great hardships to the revenue-paying zemindars. According to the rules under the revenue law, the *kists* for the payment of revenues are on the 28th of June, 28th of September, 12th of January, and 28th of March, corresponding to the middle of *Jaistha*, the middle of *Bhadra*, the end of *Agrahayana*, and the middle of *Chaitra;* but if the *kists*, as has been provided for in this Bill, fall on *Ashar*, *Aswin*, *Paus*, and *Chaitra*, the rent will be paid after fifteen days after the revenue is paid. In that case, it will be difficult to pay the revenue, but if Government proposes to alter the rules by regulating the payment of *kists*, then I think there will be no difficulty. But unless and until Government agrees to alter the *kists*, I think it will not be of any practical use to accept the proposed alteration of *kists*. In that case, there is every likelihood that the property will be sold and there will be no existence of a *patni*. At present, lots of properties are being put to sale on account of economic distress. Now, if this clause is accepted, there will be much more defaults as a result of which more estates will be sold and in the long run the *patni* system will be abolished. In the interests of the *patnidars*, I submit that the provision contained in this amending Bill should not be given effect to unless and until Government agrees to change the dates of payment of revenue at least a month after the existing dates for *kists*.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I tried to follow what the Raja Bahadur of Nashipur said, but I confess I have failed to do so. First of all, I do not think there is much substance in his argument that since Government are not changing the date of revenue *kists* a large number of zemindars would default and their properties would be sold. What is the change that has been brought about by this amendment? The only change is that no interest would be payable before the first day of the fourth month. That is the change. My honourable friend tried to distinguish between the *patnidars* in West Bengal and Eastern Bengal. But, Sir, I do not think there is any substantial difference between the two. As a matter of fact, when the tenants used to pay——

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: On a point of personal explanation, Sir. I did not want to distinguish

between the *patnidars* of Eastern Bengal and West Bengal. But I wanted to draw the attention of the House that in West Bengal there is monthly *kist* system, whereas in Eastern Bengal there is quarterly *kist* system.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I was just going to make my submission on that point. Before the Bengal Tenancy Act of 1885, tenants used to pay their rent in monthly *kists*. Most of these *patnis* were created before 1885: that is why monthly *kists* are mentioned probably in the *kabuliats* of *patnidars* and *pattas* of the zemindars. But since then the Bengal Tenancy Act came into force and now there are four *kists* in the year. So, it is only an attempt to adjust the rent payable by the *patnidars* to zemindars according to the rent payable by the tenants to the *patnidars:* that is the only change that has been made, nothing more and nothing less. My friend the Raja Bahadur said that the margin of profit in West Bengal is smaller than that in Eastern Bengal, and so unless the zemindars can realise their *patni* rents from their *patnidars* before the revenue sale day, they will not be able to meet their revenue demands. But my submission is that whatever the date may be, the zemindars will certainly get the *patni* rent within the year. The last dates for the revenue *kists* are 28th of June, 28th of September, 12th of January and 28th of March. Now, Sir, the dates for payment of *patni* rents in four *kists* may not be actually before the last dates of the revenue *kists*. But that should not create any difficulty for the zemindars in paying their revenue if they do not squander away the money that they will receive from their *patnidars*, but keep the amount in hand for meeting the revenue demand. That is a complete reply to the argument of the Raja Bahadur. This point was raised and Government did examine it very carefully. We obtained the opinions of different Collectors and Commissioners, and they were practically unanimous in their views that the change would not make any substantial alteration in the position of zemindars.

Khan Sahib ABDUL HAMID CHOWDHURY: Mr. President, Sir, if I have followed aright our honourable colleague the Raja Bahadur of Nashipur, his objection to my Bill is based only on two grounds, viz., that the original Bill has undergone a thorough change in the Select Committee and that introduction of the system of quarterly payment of rent by the *patnidars* will cause hardship to the zemindars. I am afraid, Sir, the Raja Bahadur's objection is due to misconception of the whole thing.

While moving for consideration of the Bill, I clearly explained the circumstances under which it has been cut down to practically a one-clause Bill. Even if that one clause has undergone drafting change

keeping the principle underlying the clause intact, it passes my comprehension how it can be put forward as a ground for any objection. Then, Sir, as regards the other objection raised by my honourable friend, the Raja Bahadur of Nashipur, it has been fully met by the Hon'ble Minister who has spoken before me. It has been clearly explained that by the introduction of the quarterly system of payment, zemindars will not be affected in any way. The Raja Bahadur seems to apprehend that by the introduction of the system of quarterly payment, the zemindars will get their dues after about a fortnight of the last date fixed for payment of land revenue in each *kist*. This is absolutely an erroneous idea. As for instance, the rent due from a *patnidar* on account of the fourth instalment shall be realised by the end of *Chaitra* which corresponds to some date in the middle of the month of April, whereas the first instalment for payment of land revenue falls due on the 28th day of June. Thus, it is clear that even under the new system of payment, zemindars will get their dues more than a couple of months before they are required to pay revenues due from them.

Then, Sir, it has been pointed out by the Hon'ble Minister that the monthly system of payment of rent was introduced in the Patni Regulations when the tenants were liable for payment of their rent in monthly instalments. The Bengal Tenancy Act has been amended long ago substituting quarterly payment for monthly payment, and it is quite in conformity with the change introduced in the laws of tenancy that the similar change has been proposed in the Patni Regulations. The Raja Bahadur seems to think of the hardship of the zemindars only which is more imaginary than real, but I think he should not shut his eyes to the hardship caused to the *patnidars* under the existing system by which they are liable to pay their rents month by month with interest in the event of default, but are not allowed to realise their dues from their tenants save in quarterly instalments. Equity and justice demand abolition of this anomalous state of affairs.

Mr. PRESIDENT: The question before the House is the motion of Khan Sahib Abdul Hamid Chowdhury: that the Bill, as reported by the Select Committee, be taken into consideration.

(The motion was agreed to.)

Clauses 1 and 2.

Mr. PRESIDENT: The question before the House is: that clauses 1 and 2 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that the Title and Preamble be added to the Bill.

(The motion was agreed to.)

Khan Sahib ABDUL HAMID CHOWDHURY: I beg to move that the Bill, as settled in the Council, be passed.

Mr. PRESIDENT: Motion moved: that the Bill, as settled in the Council, be passed.

The question before the House is that the Bengal Patni Taluks Regulation (Amendment) Bill, 1939, as settled in the Council, be passed.

(The motion was agreed to.)

The Bengal Water-Hyacinth (Amendment) Bill, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move that the Bengal Water-Hyacinth (Amendment) Bill, 1940, be taken into consideration.

Sir, in doing so, I have to make a few remarks. Sir, this Act was introduced with the object of giving certan facilities to the agriculturists of Bengal for keeping out water-hyacinth which has been doing ravages in certain parts of Bengal. Sir, this is a very small amending Bill. It only proposes to amend a single section really in order to facilitate work, so that it may be done in co-operation with all the villagers, and the cost may be realised easily through the union board. For this reason this Bill was introduced. Otherwise, Sir, there is already provision in the Act itself for the realisation of cost by certificate procedure or by sale of land under sections 11 and 12 of the Act itself. But that is a very cumbrous procedure, and it will be very costly also in the long run, because if the cost of certificates have to be realised from the tenants, it will be detrimental to their interests. So, Sir, I have proposed in this Bill that the union board should have power after the Collector has approved of the scheme and has sanctioned the scheme and also the apportionment of cost showing the amount payable by individual agriculturists who will be benefited by this scheme. After disposal of disputes, if any, it should be realisable through the union board under section 37(B) of the Village Self-Government Act. That is my proposal. I understand and as a matter of fact we have already received a copy of the Government amending Bill in this matter, but, Sir, it does not cover the ground which I have in mind. I want to make this realisation of cost easy and possible for the agriculturists of Bengal, but the Government Bill which has been placed before us does not make any provision

for that. It only repeats what is already in the Act about realisation under sections 11 and 12. So, I think, Sir, my Bill is very necessary, and it should be taken into consideration unless the Government in the meantime change their views and undertake to revise their draft in such a way that it may include the provision which I have made or something like it in their own Bill.

With these few words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that the Bengal Water-Hyacinth (Amendment) Bill, 1940, be taken into consideration.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, with regard to the suggestion that the Government should consider the amendment and bring in their own amendment there will be a difficulty. The present Bill which the Government has brought is itself an amending Bill. It has therefore a limited scope and I believe there would be some difficulty in incorporating the very valuable ideas of Khan Bahadur Saiyed Muazzamuddin Hosain in that Bill. The suggested amendment may be beyond the scope of the amending Bill. If necessary—and as we find it very useful—another Bill may be brought forward for incorporating the ideas of the Khan Bahadur.

The Hon'ble Mr. TAMIZUDDIN KHAN: Mr. President, Sir, my honourable friend Khan Bahadur Saiyed Muazzamuddin Hosain has referred to a Government Bill similar to his own. Sir, the Government Bill that has been given notice of is not, so to say, a Government Bill actually, because if the House will remember it will be seen that Khan Bahadur Muazzamuddin Hosain has been trying for about a year and a half or about two years for a measure like this. It was referred to a Select Committee once, I think, but for some reason the Select Committee could not meet. Then it was at the request of the Khan Bahadur himself that Government was persuaded to bring in a Bill of their own and, accordingly, I have given notice of a Bill. That Bill is on the same lines as the Bill of Khan Bahadur Muazzamuddin Hosain. The most important point I thought was that the Collector should be empowered to prepare schemes and to incur expenditure for the benefit of the locality and then be able to realise the money spent from the persons benefited. As to how that money should be recovered from the persons benefited, that I considered to be not a very important point. But I gather from the Khan Bahadur's speech now that he considers that to be a very important point. Sir, I can say so far that if there is no inherent difficulty in accepting the suggestion of the honourable mover of this Bill when the Government Bill is taken into consideration to incorporate in it appropriate amendments, I shall be

agreeable to that. My friend Khan Bahadur Naziruddin Ahmad has said that there may be some legal difficulty. I have not examined that question as yet. There may not be any difficulty, but I can give this assurance that if there is no such legal difficulty I shall not stand in the way of a suggestion like that being examined by the House and if the House agrees, an amendment to that effect may be accepted.

Sir, my motion will be to take into consideration the Bill that I shall introduce a few days hence. But if my honourable friend desires, and if the House also agrees that the Bill should be referred to a Select Committee for the consideration of the matter that has been referred to by my honourable friend, I shall also be agreeable to the adoption of a course like that. My only anxiety was that the Bill should be passed as early as possible. Government have agreed to the principle of the Bill and also were prepared to sympathetically consider the Bill of Khan Bahadur Muazzamuddin Hosain if it could be brought before the House; but unfortunately, as I have said, it could not be brought before the House for consideration. As the Bill which Government have given notice of is practically the same Bill with only drafting amendments, I think my honourable friend Khan Bahadur Muazzamuddin Hosain should not press his present motion because I submit, Sir, that this Bill is capable of a good deal of drafting improvement. My honourable friend has incorporated in one clause a large number of ideas. It will be very cumbrous if this Bill is passed in the present form. On the other hand, if my friend agrees and if he allows the Government Bill to come before this House for consideration, I think, Sir, this difficulty will be obviated. Also my friend will have every opportunity to incorporate in this Bill his new idea about the realisation of the money that may be spent by Collectors in executing particular schemes. In this view, Sir, I would request my honourable friend not to press his motion. I shall be agreeable to any reasonable request that is made when the Government Bill comes before the House for consideration.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: In view of what has fallen from the Hon'ble Minister, I would beg leave of the House to withdraw my motion.

The motion of Khan Bahadur Saiyed Muazzamuddin Hosain was then, by leave of the House, withdrawn.

The Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move that the Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1940, be taken into consideration.

Sir, in accordance with rule 53 of the Bengal Legislative Council Procedure Rules, I have to discuss the principles of the Bill and its general provisions only at this stage. The principle and main object of this amending Bill is to regulate that necessary evil which goes under the name of prostitution in mufassil municipal areas. Now, the original Act was passed so long ago as 1907. Since then a large volume of water has passed through the Hooghly river and stupendous and kaleidoscopic changes have taken place in this world. The original Act contains no definition of brothel or prostitution and is defective in many respects. It does not contain any provision by which any municipal authority can regulate prostitution within its area. The result is that the Act has become, for all practical purposes, a dead letter. So, there is a necessity of making an amendment of this Act so that it may be effectively enforced in mufassil municipal areas. In a case between Chittagong Municipality and certain prostitutes of Chittagong town, it has been held by the Hon'ble High Court of Calcutta that municipal commissioners have no power to remove the prostitutes from any quarter of the town. No doubt, the Bengal Suppression of Immoral Traffic Act was passed in 1933, but it is confined only to the town of Calcutta. It has not been extended to mufassil areas. The Act of 1907 is still in force in all parts of Bengal, all municipal areas except Calcutta. This amending Bill proposes to remove some defect of this 1907 Act. It gives power to the Municipal Board to control prostitution within its area. It is a fact that prostitutes at present live indiscriminately in all quarters of the municipal areas, sometimes they take up residence near the place of public worship; sometimes near schools and colleges; sometimes in the midst of populous quarters. There is no law to prevent them from doing so. Hence, the necessity of giving some power to the Municipal Board to regulate the residence of the prostitutes. There are no two opinions in the country that this evil should be checked in all possible ways, though it cannot be abolished altogether. The Bill does not seek to abolish prostitution at all as has been done in the Presidency of Madras, but only touches the fringe of this most important problem, on the successful solution of which depends the dawn of a better society.

Sir, there are similar provisions in some of the Provincial Acts of other provinces, such as Bombay, and the report is that they are working very well. This amending Bill makes the definition of prostitution clear; apart from that, this Bill makes some provision for giving power to regulate the residence of prostitutes within municipal areas. I submit that for the sake of humanity and a better form of society, it is necessary.

With these few words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that the Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1940, be taken into consideration.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 30th November, 1940.

Sir, I have no doubt that the principle behind the Bill and the motive which has induced the honourable member to bring it before the House is one that we all admire and which deserves the support of this House. But the details of it, namely, how to give effect to it and what are the objections to it, are considerations which should be gone into very carefully, and therefore I feel that it will be extremely helpful if this Bill is circulated for eliciting opinion thereon so that municipalities and other public bodies can give us an indication as to how we should legislate to give effect to the principle underlying this Bill. The municipalities are the bodies that are most interested in this, and their opinion on this question will be of great help. Besides, there are public and other non-official bodies which have taken some interest in this matter and their advice and guidance also will be helpful. So, I hope the honourable member will accept the motion that I have moved. The time that I have asked for is very short—only up to 30th November—and if my amendment is accepted, we may be able to go into this Bill thoroughly at the next session of the Council. With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that the Bill be circulated for the purpose of eliciting opinion thereon by the 30th November, 1940.

The question before the House is: that the Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1940, be circulated for the purpose of eliciting opinion thereon by the 30th November, 1940.

(The motion was agreed to.)

The Bengal Land Revenue Sales (Amendment) Bill, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move that the Bengal Land Revenue Sales (Amendment) Bill, 1940, be taken into consideration.

In doing so, I may first of all say that this is a very small measure; it only wants to give facilities to landlords by providing that landlords should be given postal notices of the sale of their zemindaries before it actually takes place, and, in case the number of co-sharer landlords be more than five, the five biggest co-sharers should be served with

postal notices. In that case, if they like, they may protect their estates. It often happens in Eastern Bengal that landlords do not get any information about the sale of their zemindaries until it is too late. Therefore, it is necessary that some such provision should be made by an enactment. With that object in view, I move that the Bill be taken into consideration.

Mr. PRESIDENT: Motion moved: that the Bengal Land Revenue Sales (Amendment) Bill, 1940, be taken into consideration.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, before I move my amendment, I have got to submit an explanation. According to the convention, there should be one more member on the Select Committee from the Congress Group. But before this convention was accepted, the notice of this motion was given. It is practically the old motion that has been renewed. That is why the mistake has crept in and that is why Mr. Ormond's name appears on the list of members although he resigned long ago.

Sir, with your permission, I would suggest a short-notice amendment to the effect that in place of Mr. E. C. Ormond the name of Mr. R. W. N. Ferguson be substituted.

Mr. PRESIDENT: All right, you move your amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bill be referred to a Select Committee consisting of—

(1) Khan Bahadur M. Abdul Karim,
(2) Khan Sahib Abdul Hamid Chowdhury,
(3) Khan Bahadur Saiyed Muazzamuddin Hosain,
(4) Khan Bahadur Naziruddin Ahmad,
(5) Mr. Kader Baksh,
(6) Mr. R. W. N. Ferguson,
(7) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(8) Mr. Kamini Kumar Dutta,
(9) Mr. Naresh Nath Mookerjee,
(10) Rai Manmatha Nath Bose Bahadur, and
(11) the mover,

with instructions to submit their report by the 31st December, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Mr. PRESIDENT: Amendment moved: that the Bill be referred to a Select Committee consisting of—

(1) Khan Bahadur M. Abdul Karim,
(2) Khan Sahib Abdul Hamid Chowdhury,
(3) Khan Bahadur Saiyed Muazzamuddin Hosain,
(4) Khan Bahadur Naziruddin Ahmad,
(5) Mr. Kader Baksh,
(6) Mr. R. W. N. Ferguson,
(7) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(8) Mr. Kamini Kumar Dutta,
(9) Mr. Naresh Nath Mookerjee,
(10) Rai Manmatha Nath Bose Bahadur, and
(11) the mover,

with instruction to submit their report by the 31st December, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Mr. NARESH NATH MOOKERJEE: I am afraid the Hon'ble Minister does not impress me when he says that the convention of this House to have three Congress nominees in a Select Committee of eleven is a new procedure. I think that in every Select Committee the proper quota for the Congress is three. I submit that this is a very important Bill and on the Select Committee the Opposition should be fully represented. It is no use our going to serve on the Select Committee if we do not get adequate representation.

Mr. PRESIDENT: But, Mr. Mookerjee, you have not moved any amendment. If you move a short-notice amendment, then alone Government can consider your suggestion.

Mr. NARESH NATH MOOKERJEE: With your permission, Sir, I would only like to mention that three names of the Congress Party be included in the Select Committee, namely:—

Mr. Birendra Kishore Roy Chowdhury,
Mr. Kanai Lal Goswami, and
Mr. Lalit Chandra Das.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is not the proper way to substitute names, Sir. The honourable member must state in whose places he is suggesting these names.

Mr. NARESH NATH MOOKERJEE: In place of Mr. Kamini Kumar Dutta, Mr. Naresh Nath Mookerjee and Mr. E. C. Ormond.

Mr. PRESIDENT: No, no; you cannot do that. I have already permitted the Leader of the House to substitute the name of Mr. Ferguson in place of Mr. Ormond when he moved his motion. After informal consultation, you can suggest three names, two names in place of the Congress nominees already suggested and another name in place of somebody else.

Mr. NARESH NATH MOOKERJEE: Sir, I do not want to exclude anybody's name from the list, but in order to please you——

Mr. PRESIDENT: There is no question of pleasing me. You are entitled to give notice of an amendment at short notice which I am agreeable to accept provided the House has no objection. But it is no use criticising the Government, unless you make a specific suggestion in the form of an amendment.

Mr. NARESH NATH MOOKERJEE: I suggest that in place of Mr. Ferguson——

Mr. PRESIDENT: But I have already told you that Mr. Ferguson's name cannot be taken out except through an amendment which is accepted by the House.

Mr. NARESH NATH MOOKERJEE: In that case, I suggest the names of Mr. Kanai Lal Goswami, Mr. Birendra Kishore Roy Chowdhury, and Sir Bijoy Prasad Singh Roy.

Khan Sahib ABDUL HAMID CHOWDHURY: Will the Hon'ble Minister be pleased to state what is the quota of the Coalition Party? If the honourable member wants to reduce the quota of the Coalition Party by one——

Mr. NARESH NATH MOOKERJEE: I am including Sir Bijoy Prasad Singh Roy as a member of the Coalition Party.

Mr. PRESIDENT: The Chair is ready to accept this amendment at short notice if the House has no objection.

Khan Bahadur NAZIRUDDIN AHMAD: There is an objection because——

Mr. PRESIDENT: I simply want to know whether there is any objection and there is no necessity for giving any reason therefor.

The question before the House is: that the Bengal Land Revenue Sales (Amendment) Bill, 1940, be referred to a Select Committee consisting of—

(1) Khan Bahadur M. Abdul Karim,
(2) Khan Sahib Abdul Hamid Chowdhury,
(3) Khan Bahadur Saiyed Muazzamuddin Hosain,
(4) Khan Bahadur Naziruddin Ahmad,
(5) Mr. Kader Baksh,
(6) Mr. R. W. N. Ferguson,
(7) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(8) Mr. Kamini Kumar Dutta,
(9) Mr. Naresh Nath Mookerjee,
(10) Rai Manmatha Nath Bose Bahadur, and
(11) the mover,

with instructions to submit their report by the 31st December, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

(The motion was agreed to.)

Mr. NARESH NATH MOOKERJEE: Sir, I wish it to be recorded that my group are unable to serve on this committee.

Mr. NUR AHMED: Mr. President, Sir, I beg to move that the Bengal Land-Revenue Sales (Amendment) Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,
(2) Mr. Humayun Kabir,
(3) Mr. Kamini Kumar Dutta,
(4) Mr. Lalit Chandra Das,
(5) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(6) Khan Bahadur Rezzaqul Haider Chowdhury,
(7) Khan Bahadur Syed Muhammad Ghaziul Huq,
(8) Mr. W. B. G. Laidlaw,
(9) Mr. Krishna Chandra Roy Chowdhury,
(10) Mr. Khorshed Alam Chowdhury, and
(11) the mover,

with instructions to submit their report within one month from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Sir, this is a very simple amending Bill which seeks to remove a longfelt grievance of the landed proprietors of Bengal. The Bengal Revenue Sales Act of 1859, better known as the Sunset Law, does not contain any provision under which auction sale can be set aside on deposit of money later on, although other Acts of a similar nature contain a provision to that effect. My proposal, therefore, is to add a provision to the original Act for setting aside an auction sale held under the provisions of this Act on the petition of any person whose interest is affected by such sale on deposit of arrears due with necessary costs and a sum equal to the sum of 5 per cent. to be paid to the purchasee as compensation. Similar provisions are contained in Rule 89, Order 21 of the Civil Procedure Code, and section 22 of the Bengal Public Demands Recovery Act of 1930. Also in 1936, similar provision was inserted in the Patni Regulation of 1819. The absence of such a provision has been causing hardship and suffering to the landholder and the person affected by sale in more than one ways. In a majority of cases, estates are sold not so much for the default of proprietors as for other causes beyond the control of the proprietors, in some cases without the knowledge of the actual proprietors and the persons affected by the sale. Sometimes minor owners lose by sale the only means of their livelihood. Sometimes some designing co-sharers bring about auction sale wilfully withholding payment of revenue in due time with the purpose of removing encumbrances. It appears that a large number of estates is sold every year. On an average it appears that 1,500 estates are sold a year. Of course, appeal lies against these cases, but in appeal very few cases succeed. It appears that in 1938-39, about 1,400 estates were sold and 150 appeals were filed out of which only 32 succeeded. This is a state of things which is prevailing and causing great hardship. So, my proposal is to add a clause which is already in operation in similar Acts and has not caused any hardship to anybody.

Sir, this Bill was circulated for eliciting public opinion and it has secured support from all quarters. Such an honourable body as the Bar Association of the Calcutta High Court has strongly supported this Bill with the remark that the proposed amendment is overdue and should be made.

With these few words, I commend my motion for reference to Select Committee to the acceptance of the House.

Mr. PRESIDENT: May I enquire of the honourable member if he has got consent of the members whose names he has proposed for the Select Committee?

Mr. NUR AHMED: Some of them I have consulted. But I trust nobody will have any objection.

Mr. PRESIDENT: On a reference to precedents, I find in the Central Legislature it was held "that it is improper for any member to place the name of any other member on the order paper for such purposes as are contained in this resolution without his authority. It leads to extreme inconvenience if that course is pursued and therefore it has repeatedly been ruled out of order in past times, and I hope the Assembly will adhere strictly to the ruling." I shall not rule out this particular motion on this occasion, but in future I would insist that in suggesting the names for Select Committee consent of the members whose names are proposed must be obtained. Otherwise, there will be difficulties.

Motion moved: that the Bengal Land-Revenue Sales (Amendment) Bill, 1940, be referred to a Select Committee——

Mr. NARESH NATH MOOKERJEE: Sir, may I have the permission of the House to move a short-notice amendment to the Bill?

Mr. PRESIDENT: If there is no objection from anybody, I shall accept it; otherwise not.

(There was no objection.)

Mr. NARESH NATH MOOKERJEE: Sir, I beg to move that the Bengal Land-Revenue Sales (Amendment) Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,

(2) Mr. Humayun Kabir,

(3) Mr. Kamini Kumar Dutta,

(4) Mr. Lalit Chandra Das,

(5) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(6) Khan Bahadur Rezzaqul Haider Chowdhury,

(7) Khan Bahadur Syed Muhammad Ghaziul Huq,

(8) Mr. W. B. G. Laidlaw,

(9) Mr. Kanailal Goswami,

(10) Mr. Khorshed Alam Chowdhury, and

(11) Mr. Nur Ahmed,

with instructions to submit their report within one month from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Mr. PRESIDENT: I take it that there is no objection; in that case, I accept this short-notice amendment.

(There was no objection.)

Motion moved: that the Bengal Land-Revenue Sales (Amendment) Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,
(2) Mr Humayun Kabir,
(3) Mr. Kamini Kumar Dutta,
(4) Mr. Lalit Chandra Das,
(5) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(6) Khan Bahadur Rezzaqul Haider Chowdhury,
(7) Khan Bahadur Syed Muhammad Ghaziul Huq,
(8) Mr. W. B. G. Laidlaw,
(9) Mr. Krishna Chandra Roy Chowdhury,
(10) Mr. Khorshed Alam Chowdhury, and
(11) the mover,

with instructions to submit their report within one month from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Since then an amendment has been moved by Mr. Naresh Nath Mookerjee which runs as follows:—

That the Bill be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,
(2) Mr. Humayun Kabir,
(3) Mr. Kamini Kumar Dutta,
(4) Mr. Lalit Chandra Das,
(5) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(6) Khan Bahadur Rezzaqul Haider Chowdhury,
(7) Khan Bahadur Syed Muhammad Ghaziul Huq,
(8) Mr. W. B G. Laidlaw,
(9) Mr. Kanailal Goswami,
(10) Mr. Khorshed Alam Chowdhury, and
(11) Mr. Nur Ahmed,

with instructions to submit their report within one month from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

The question before the House is that the amendment be made.

(The motion was agreed to.)

Mr. PRESIDENT: The amended motion is carried.

The Bengal Non-Agricultural Tenancy Bill, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move that the Bengal Non-Agricultural Tenancy Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,
(2) Mr. Nur Ahmed,
(3) Khan Bahadur M. Abdul Karim,
(4) Khan Bahadur Rezzaqul Haider Chowdhury,
(5) Mr. Kamini Kumar Dutta,
(6) Mr. Birendra Kishore Roy Chowdhury,
(7) Rai Keshab Chandra Banerjee Bahadur.
(8) Mr. Amulyadhone Roy,
(9) Mr. W. B. G. Laidlaw,
(10) Mr. Humayun Kabir, and
(11) the mover,

with instructions to submit their report by the 30th September, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Sir, this is a short Bill which has been introduced for giving certain rights to the non-agricultural tenants in the permanently-settled areas only. Sir, it was mentioned in the Preamble in Part I of Article 4 of section 7 of the Permanent Settlement Regulations that it was the duty of the paramount power to protect all classes of people, particularly the most helpless. Sir, in permanently-settled areas these non-agricultural tenants are helpless. They have no right at all. The Bengal Tenancy Act has given right to the agricultural tenants, but these non-agricultural tenants have to depend entirely on the sweet will of their landlord and they are guided by contracts. But contracts very often do not exist and in many cases landlords are unwilling to enter into contracts with these helpless people. For this reason it has

become necessary that some law should be enacted to give them some right so that they may have some protection against tyrannical or oppressive zemindars, if there be any. With this object in view, the Bill has been drafted, and I move that reference to Select Committee may be accepted by the House.

With these words, I move my motion.

Mr. PRESIDENT: Motion moved: that the Bengal Non-Agricultural Tenancy Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,
(2) Mr. Nur Ahmed,
(3) Khan Bahadur M. Abdul Karim,
(4) Khan Bahadur Rezzaqul Haider Chowdhury,
(5) Mr. Kamini Kumar Dutta,
(6) Mr. Birendra Kishore Roy Chowdhury,
(7) Rai Keshab Chandra Banerjee Bahadur,
(8) Mr. Amulyadhone Roy,
(9) Mr. W. B. G. Laidlaw,
(10) Mr. Humayun Kabir, and
(11) the mover,

with instructions to submit their report by the 30th September, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the end of February, 1941.

Sir, Government have appointed a committee to enquire into the problem of non-agricultural tenancy. That committee has not yet finished its deliberations, but Government are committed to undertake legislation on this question. In this view of the matter, I suggest that this Bill be circulated for eliciting public opinion so that before Government frame their comprehensive Bill they may have the benefit of public opinion on this non-official Bill as well.

Mr. PRESIDENT: Amendment moved: that the Bill be circulated for the purpose of eliciting opinion thereon by the end of February, 1941.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: May I request the Hon'ble Minister to change the date from February, 1941, to 31st December, 1940?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I just explain, Sir, that it is not necessary to change the date to 31st December, 1940, because the special committee that has been sitting will report to Government, and it will be some time before Government can frame their Bill to introduce it in the Legislature. So, February, 1941, is by no means a very distant date for that purpose and I think it would serve my honourable friend's purpose.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Would it not be desirable to get an opinion before Government draft their own Bill? If the Government are in possession of this opinion before, I think it will help them.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If that will satisfy my friend, I shall have no objection. Let the honourable member suggest it and I shall accept.

Mr. PRESIDENT: Order, order. As I have said, I shall not accept any short-notice amendment if there is any objection from anybody. May I take it that there is no objection to changing the date to 31st December, 1940?

(No objection was raised.)

Mr. PRESIDENT: The question before the House is: that the Bill be circulated for the purpose of eliciting opinion thereon by the end of February, 1941.

Since then an amendment has been made that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

The question before the House is: that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

(The amended motion was agreed to.)

Mr. NUR AHMED: Sir, with your permission, Sir, may I move the Bengal Suppression of Immoral Traffic (Amendment) Bill, 1940. In that case, Sir, I will not move the Bengal Juvenile Smoking (Amendment) Bill.

Mr. PRESIDENT: You cannot do so. These Bills have been placed in order of priority according to the result of ballot, and it is not possible, even for the Chair, to alter that arrangement now. It is the

right of the members of this House to move their Bills in the order in which they are placed on the agenda as the result of the ballot, and the Chair will not interfere with that arrangement.

Mr. NUR AHMED: Sir, I do not move the Bengal Juvenile Smoking (Amendment) Bill.

The Bengal Agricultural Debtors (Amendment) Bill, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. President, Sir, I beg to move that the Bengal Agricultural Debtors (Amendment) Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. Mukunda Behary Mullick, Minister-in-charge of the Co-operative Credit and Rural Indebtedness Department,

(2) Khan Bahadur Ataur Rahman,

(3) Mr. Nur Ahmed,

(4) Khan Bahadur M. Shamsuzzoha,

(5) Mr. Kamini Kumar Dutta,

(6) Mr. Sachindra Narayan Sanyal,

(7) Mr. Amulyadhone Roy,

(8) Mr. W. F. Scott-Kerr,

(9) Mr. Humayun Kabir,

(10) Rai Sahib Jatindra Mohan Sen, and

(11) the mover,

with instructions to submit their report by the 30th September, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Sir, in moving this motion I want to refer to some of the salient features of the Bill itself. The Bill provides that with a view to making a serious and honest attempt to settle the debts of the agriculturists of Bengal, Government shall by a notification in the Gazette call upon all the creditors including landlords to file a complete statement of all debts due to them so that all the debtors may be given notices for the settlement of their debts. This is in accordance with the procedure adopted whenever an estate is taken over by the Court

of Wards. When an estate is taken over by the Court of Wards, notices are issued to file a complete statement of the amounts due from the estate to its creditors. On that analogy, I have suggested that there should be a provision in this Act calling upon all the creditors to submit a list of all their agricultural debtors by a certain specified date, failing which they will not be able to apply to any civil court for the realisation of their dues.

Sir, the Bengal Agricultural Debtors Act does not provide for the adjudication of debts in all cases. It is only when 40 per cent. has been settled amicably that the Board can adjudicate in respect of the other 60 per cent. I submit it is very rare that 40 per cent. of the debtors actually settle their dues by compromise; therefore, in 95 per cent. of cases the debtors will not be able to get their debts settled if crediors do not agree to the terms of settlement offered by the Debt Settlement Boards. So, I think, it is necessary that something should be done to adjudicate the debts. In a way, provision has already been made in section 21 of the existing Act that if any debtor makes an offer which in the opinion of the Board appears to be a fair offer, they may hold it to be so and record it in their records as such; and the effect of that will be that a creditor will not be able to get any amount beyond that fixed by the Board, even by going to the civil court. Sir, if the Debt Settlement Boards could be given this power to hold a certain amount of offer as fair or unfair, they can as well be given the power to adjudicate debts under the rule-making power. If Government are really anxious to see that the debts of agriculturists should be settled once for all, they should take up the matter seriously.

The other important feature of this Bill is about the realisation of debts according to the award of the Debt Settlement Board. The provision is that if the debtors fail to pay according to the instalments fixed by the Debt Settlement Board, realisation will be made by issue of certificates and their holdings will be sold off for the realisation of the debts overdue. In view of the present economic condition of the agriculturists of Bengal, I think it would be better if a provision could be inserted by which the lands of the agriculturists to the extent of one-third could be made over to the creditors in complete usufructuary mortgage for a certain period in full satisfaction of the amount settled as due. Sir, this is the provision which I have made in one part of the Bill.

Sir, these are the three main provisions made in this Bill and I believe they are all absolutely necessary. In order to make this Bill really effective, I have suggested that we should put our heads together in the Select Committee and try, if possible, to improve on it.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that the Bengal Agricultural Debtors (Amendment) Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. Mukunda Behary Mullick, Minister-in-charge of the Co-operative Credit and Rural Indebtedness Department,

(2) Khan Bahadur Ataur Rahman,

(3) Mr. Nur Ahmed,

(4) Khan Bahadur M. Shamsuzzoha,

(5) Mr. Kamini Kumar Dutta,

(6) Mr. Sachindra Narayan Sanyal,

(7) Mr. Amulyadhone Roy,

(8) Mr. W. F. Scott-Kerr,

(9) Mr. Humayun Kabir,

(10) Rai Sahib Jatindra Mohan Sen, and

(11) the mover,

with instructions to submit their report by the 30th September, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, with your permission, I would like to make a little change in my amendment, that is, instead of 30th July, 1941, 30th April, 1941, may be the date for eliciting opinion.

Mr. PRESIDENT: All right.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 30th April, 1941.

Sir, in moving my amendment I may say that not only I have every sympathy with the object of the Bill, but I have the highest regard for the sentiment and sincere desire with which my honourable friend, with the long experience behind him of rural Bengal, has brought forward a motion of this nature. Sir, I am extremely sorry, however, to observe, as my friend has also been good enough to mention, that the provisions of the Bill are not only of a radical character but are of a very far-reaching character. He has pointed out to the House that the object of the Bill is of a three-fold character. In the first place, his suggestion is that we should make a serious attempt to settle all the debts of the agriculturists. Now, Sir, that is

a very serious problem; and it has been agitating the minds of all the serious thinkers of the province who take any interest in the welfare of the rural masses as to how this problem can be satisfactorily solved. It is not an easy problem, and I am sure my respected friend, the Khan Bahadur, knows it very well. It is no doubt true that the measure that we have already got does not go very far. But, Sir, it will be appreciated at the same time that the Agricultural Debtors Act, 1935, was passed on the basis that we should make an attempt to bring the debtors and creditors together for the purpose of having a settlement of all the debts on an amicable basis and section 15 of the existing Act makes a provision of this nature. My honourable friend's suggestion, as he himself has said, is analogous to the provision of the Court of Wards Act, namely, that all the creditors are to be brought together and if they do not come at the stipulated time, their dues would be wiped off. I would appeal to my honourable friend just to pause and consider whether a provision of this nature can be decided upon on such a short notice. At the same time, I feel that we should make a serious attempt to see if this is possible. The suggestion made by my friend requires very serious consideration as it affects various interests: for instance, it affects the landlords to a very considerable degree, *e.g.*, if a landlord cannot come in the time mentioned in the Bill, he would not get his dues. I do not consider this to be an easy matter.

Next, Sir, my honourable friend has suggested that the Boards ought to be empowered to make proper adjudication. I may be permitted to point out that section 21 of the existing Act gives some power of this nature to the Board, so that if the debtor does not agree with the terms of the Board, the creditor cannot realise his dues within a number of years. I think, Sir, this is a provision which has produced a salutary effect, and we have no information about many cases where instances of the type indicated by my honourable friend have really happened. So, I appeal to my honourable friend to consider these humble suggestions of mine and to give us some time to consider the various points raised from different aspects. It is only from that point of view that I have thought fit to table an amendment to enable Government to receive the opinion of the public bodies on the various provisions of the Bill so that they may be able to decide whether they could be given effect to or not. At the same time, I would like to point out that we have already got an amending Bill passed by both the Houses. It had been assented to a month ago and put on the statute book on the 11th July last. It has solved a great difficulty in connection with a class of debts covered by usufructuary mortgage. It has also solved the difficulty where a number of co-sharer tenants were affected by the existing provisions, because they could not come before the Board unless all the co-sharers had joined; that difficulty has been

removed. There were also other difficulties which have been removed by the amending Bill which has been passed by both the Houses and is now on the statute book. Another amending Bill dealing with sales on the basis of which possession was taken by the decree-holder has just come out of the Select Committee of the other House, and the report is going to be placed before that House very soon. I hope and trust that my honourable friend will be good enough to take these few words of mine in the spirit in which I have addressed them and give us this little time to consider his various suggestions.

I hope that my honourable friend with his long experience realises that these suggestions are of a very radical character and requires careful consideration. It is from that point of view that I have tabled this amendment, and I hope the House will accept it.

Mr. PRESIDENT: Amendment moved: that the Bengal Agricultural Debtors (Amendment) Bill, 1940, be circulated for the purpose of eliciting opinion thereon by the 30th June, 1941.

The question before the House is: that the Bengal Agricultural Debtors (Amendment) Bill, 1940, be circulated for the purpose of eliciting opinion thereon by the 30th July, 1941.

(The motion was agreed to.)

The Bengal Land Alienation Bill, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move that the Bengal Land Alienation Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,

(2) Mr. Nur Ahmed,

(3) Khan Bahadur Naziruddin Ahmad,

(4) Khan Bahadur M. Shamsuzzoha,

(5) Mr. Kamini Kumar Dutta,

(6) Mr. Amulyadhone Roy,

(7) Mr. Naresh Nath Mookerjee,

(8) Mr. Humayun Kabir,

(9) Rai Sahib Jatindra Mohan Sen,

(10) Mr. A. F. Stark, and

(11) the mover,

with instructions to submit their report by the 30th September, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Sir, this is a very necessary Bill for the benefit of the agriculturists of Bengal inasmuch as an Act restricting alienation of land by the agriculturists was recommended by the Royal Commission on Agriculture for India. But unfortunately no step has been taken since then. Sir, it is absolutely necessary that the transfer of land from the agriculturists to non-agriculturists should at least to a very great extent be restricted; otherwise, improvident and uneconomic as the agriculturists of Bengal are, they will gradually and steadily pass off all their lands to the non-agriculturists being reduced to the position of *bargadars* under them. Sir, from the statistics that were collected in connection with the Land Revenue Commission, of which I had the honour to be a member, it was found that about 7 per cent. of tenancy passed off the hands of the agriculturists every 12 years. So, yearly passage worked out at 7/12 per cent. or about little more than half. But it was found at the same time that during the last year the tenancies were passing off much more rapidly, so much so that the number of tenancies which passed off during the last one year was equal to that of the previous 4 years. So, Sir, if at this growing rate the transfer of tenancy goes on, it will be a menace to the country. It was also found that of the tenancies which passed out of the hands of the agriculturists, nearly 60 per cent. was in possession of people who were not cultivating themselves, but it was being cultivated by others. This indicated that it was either being cultivated by non-agriculturists through servants or was being cultivated by agriculturists through *bargadars* or their servants, because they had too much lands which they could not cultivate themselves. Sir, I consider that it is as much necessary to stop passing of lands to non-agriculturists as it is necessary also to stop passing of too much lands to the hands of individual agriculturists. Because, the individual agriculturists with thousands of bighas of lands in their possession which they cannot themselves cultivate will be far worse off than non-agriculturists. They will be bound to let out the lands either in *barga* or in under-tenancy and they will treat the tenants under them much more harshly than the non-agriculturists. So, provision has been made in the Bill which I have drafted to the effect that not only there should be restriction for the passage of lands to non-agriculturists, but also for the accumulation of lands in the hands of individual agriculturists.

Sir, the provision of the Bill as I have drafted is very simple. It is that whenever an agriculturist executes any deed of transfer, there should be an endorsement to the effect on behalf of the person in whose name the document is executed that he is an agriculturist

according to the definition given in this Bill. But if this endorsement is found to be wrong at any time, the whole transaction will stand cancelled. That is, no doubt, a threat. According to my humble opinion, Sir, this is, in a way, far simpler than the Punjab Land Alienation Act where enquiry has to be made in every case as to whether the purchaser is really an agriculturist or a non-agriculturist. There is also another difference. In the Punjab there are classes of people who are known as agriculturists and so transaction can take place only between these classes of people. In Bengal we have not got agriculturists as a separate class by denomination. So, in order to give effect to an Act like that of the Punjab, it will be extremely difficult if in every case an enquiry has to be made, as it will require hoards of officers for making such enquiries. For this reason, I have thought of a very simple device—a threat that the transaction will stand cancelled if the purchaser is found to be not an agriculturist, or if he is found to have more land than what he can himself cultivate.

Sir, these are the main provisions of the Bill. I move my motion for reference to the Select Committee, and I hope it will be accepted by the House.

Mr. PRESIDENT: Motion moved: that the Bengal Land Alienation Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,

(2) Mr. Nur Ahmed,

(3) Khan Bahadur Naziruddin Ahmad,

(4) Khan Bahadur M. Shamsuzzoha,

(5) Mr. Kamini Kumar Dutta,

(6) Mr. Amulyadhone Roy,

(7) Mr. Naresh Nath Mookerjee,

(8) Mr. Humayun Kabir,

(9) Rai Sahib Jatindra Mohan Sen,

(10) Mr. A. F. Stark, and

(11) the mover,

with instructions to submit their report by the 30th September, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1941.

Sir, in moving his motion my honourable friend has himself admitted the difficulty of deciding who is an agriculturist and who is a non-agriculturist and he has tried to point out that there is no such class as agriculturist in Bengal as they have in the Punjab. Sir, agriculturists and non-agriculturists in Bengal do really overlap. One brother may be an agriculturist, another brother may be an advocate in the High Court; the son may be an agriculturist, the father may be a medical man. So, it is very difficult to decide who is an agriculturist and who is a non-agriculturist. Moreover, Sir, my honourable friend's main reason for moving this Bill is that a very large quantity of land is passing out of the hands of the agriculturist to the non-agriculturist. On his own admission, from the figures collected for the Land Revenue Commission Report such transfer was only 7 per cent. in 12 years. Sir, Government have recently had opportunity to enquire into this problem and we collected figures from three sources. Firstly, in connection with the survey and settlement operations in the district of Rangpur; secondly, we made an enquiry in the colonisation area of the 24-Parganas; thirdly, there are the figures collected for the Land Revenue Commission Report, and all the figures collected tally very closely and they show that in course of 12 years only 3 per cent. of the total area has passed from the hands of agriculturists to non-agriculturists. My friend urges that Government should undertake a legislation—an important legislation like this—only on 8 months' experience. Suppose that such a problem has arisen during the last 8 months. Personally, I feel, Sir, that Government ought to have more experience; they ought to be satisfied that this is really a growing menace before they should undertake this legislation. In any case, I do not propose to go into the merits at present. We have collected very valuable data, and we are considering the whole question very carefully. (Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: The Royal Commission recommended 10 years ago.) The Royal Commission might have recommended 10 years ago, but evidently it was the Royal Commission for India, and I do not know if the Royal Commission did actually take into consideration the problems existing in this province in all its bearings. Moreover, only in 1938, this House and the other House did agree to give right of free transfer to agriculturists by amending the Bengal Tenancy Act. So, two things cannot go together. My friend with his experience of Revenue Law and his experience of rural economics should realise that right of free transfer and restricted transfer can seldom go hand in hand. But in any case, I do not propose to go into the merits of the case to-day. The matter is under consideration of Government. It is receiving very serious attention

and we propose to make up our mind one way or the other before long. In the meantime, Sir, I suggest that this Bill, which I hope will solve the problem, if such a problem really exists, should be circulated for eliciting public opinion on it, and I hope my friend will agree to my proposal.

Mr. PRESIDENT: Amendment moved: that the Bengal Land Alienation Bill, 1940, be circulated for the purpose of eliciting opinion thereon by the 31st July, 1941.

The question before the House is: that the Bengal Land Alienation Bill, 1940, be circulated for the purpose of eliciting opinion thereon by the 31st July, 1941.

(The motion was agreed to.)

The Bengal Public Demands Recovery (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move that the Bengal Public Demands Recovery (Amendment) Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,

(2) Mr. Kamini Kumar Dutta,

(3) Mr. Lalit Chandra Das,

(4) Mr. W. B. G. Laidlaw,

(5) Mr. Krishna Chandra Roy Chowdhury,

(6) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(7) Mr. Humayun Kabir,

(8) Khan Bahadur Saiyed Muazzamuddin Hosain,

(9) Khan Sahib Subidali Molla,

(10) Mr. Humayun Reza Chowdhury, and

(11) the mover,

with instructions to submit their report within two months from the date of reference, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Sir, in moving this motion for reference to the Select Committee, I beg to submit that the main purpose of this Bill has been fully explained in the Statement of Objects and Reasons of the Bill. From the same it will appear that nothing new has been proposed in this Bill and no new departure has been made. The substitution of the proposed clause for section 29 of the Act has become necessary as the original

provision which was contained in this Act has been modified by Act XXXI of 1936 of the Central Assembly, that is, the Civil Procedure Code, which has been amended in the proposed manner. There cannot be any objection to this, as it has been drawn on the line of that amending Act. Sub-sections 62, 63 and 64 of the Act were copied from the Bengal Tenancy Act of 1885. As these sections have been omitted from the Bengal Tenancy Act by the amending Act of 1938, so these sections have become obsolete and ought to be omitted. These are the two main provisions of the Bill and there are other provisions which have already been given effect to by Government by the amending Bill.

With these few words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: I think in this case also some of the members whose names have been proposed for the Select Committee have not been consulted. I know some of these members are away from the city and cannot be present during the current session to attend the Select Committee. Some of the absentee members belonging to certain parties whose names are on the Select Committee had asked for my leave to be absent from the House for the rest of the session, and it would be of no use to include such members on the Select Committee which is likely to meet soon. I should, therefore, give a general direction that all the members whose names are to be proposed for Select Committees in future should first be consulted. This time I am only giving a warning, but in future I shall consider such motion as out of order.

Motion moved: that the Bengal Public Demands Recovery (Amendment) Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,
(2) Mr. Kamini Kumar Dutta,
(3) Mr. Lalit Chandra Das,
(4) Mr. W. B. G. Laidlaw,
(5) Mr. Krishna Chandra Roy Chowdhury,
(6) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(7) Mr. Humayun Kabir,
(8) Khan Bahadur Saiyed Muazzamuddin Hosain,
(9) Khan Sahib Subidali Molla,
(10) Mr. Humayun Reza Chowdhury, and
(11) the mover,

with instructions to submit their report within two months from the date of reference, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Mr. SHRISH CHANDRA CHAKRAVERTI: May I have your leave to move a short-notice amendment, Sir?

Mr. PRESIDENT: As I have already said, if there is no objection, I shall accept short-notice amendment.

Mr. SHRISH CHANDRA CHAKRAVERTI: Sir, I beg to move that the Bengal Public Demands Recovery (Amendment) Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,
(2) Rai Brojendra Mohan Maitra Bahadur,
(3) Mr. Lalit Chandra Das,
(4) Mr. W. B. G. Laidlaw,
(5) Mr. Amulyadhone Roy,
(6) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(7) Mr. Humayun Kabir,
(8) Khan Bahadur Saiyid Muazzamuddin Hosain,
(9) Khan Sahib Subidali Molla,
(10) Mr. Humayun Reza Chowdhury, and
(11) the mover,

with instructions to submit their report within two months from the date of reference, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Mr. PRESIDENT: I take it that "the mover" means Mr. Nur Ahmed.

Mr. SHRISH CHANDRA CHAKRAVERTI: Yes, Sir. It is the desire of our leader that I should inform you that he cannot always attend. That is why I have suggested that that member's name ought to be proposed who may be able to attend.

Mr. PRESIDENT: It is true that party members are more likely to know which of their members will not be able to attend, and I have suggested that the procedure ought to be that no names should be proposed without first ascertaining whether the persons concerned will be able to attend the committee.

Mr. SHRISH CHANDRA CHAKRAVERTI: Sir, I have several times tried to bring this to your notice that the names of the members of our Party are always chosen without any reference to us. It simply puts us in an awkward position. If the present practice is adhered to, we shall have to remain out of all Select Committees in future.

Mr. PRESIDENT: *I think there is no objection to the short-notice amendment of Mr. Chakraverti.*

(No objection was raised from any group.)

Amendment moved: that the Bengal Public Demands Recovery (Amendment) Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,
(2) Mr. Brojendra Mohan Maitra,
(3) Mr. Lalit Chandra Das,
(4) Mr. W B. G. Laidlaw,
(5) Mr. Amulyadhone Roy,
(6) Raja Bhupendra Narayan Sinha Bahadur. of Nashipur,
(7) Mr. Humayun Kabir,
(8) Khan Bahadur Saiyed Muazzamuddin Hosain,
(9) Khan Sahib Subidali Molla,
(10) Mr. Humayun Reza Chowdhury, and
(11) Mr. Nur Ahmed,

with instructions to submit their report within two months from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

The question before the House is that the Bengal Public Demands Recovery (Amendment) Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,
(2) Rai Brojendra Mohan Maitra Bahadur,
(3) Mr. Lalit Chandra Das,
(4) Mr. W. B. G. Laidlaw,
(5) Mr. Amulyadhone Roy,
(6) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(7) Mr. Humayun Kabir,
(8) Khan Bahadur Saiyed Muazzamuddin Hosain,
(9) Khan Sahib Subidali Molla,
(10) Mr. Humayun Reza Chowdhury, and
(11) Mr. Nur Ahmed,

with instructions to submit their report within two months from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

The motion was put and agreed to.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, in this connection I would just like to mention one thing, not arising out of this particular motion but generally, that the Congress has tried to take three members, but there is Mr. Humayun Kabir who always associates himself with the Opposition; so, I would like to know what is his position.

Mr. PRESIDENT: These are matters to be settled in a party meeting, but not on the floor of the House.

Mr. LALIT CHANDRA DAS: Mr. Humayun Kabir and Mr. Altaf Ali belong to the Krishak Proja Party.

Maulvi ABUL QUASEM: Sir, Mr. Lalit Chandra Das says that Mr. Humayun Kabir and Mr. Altaf Ali belong to the Krishak Proja Party, but from the list of members supplied by your office, Sir, I find that they belong to no party.

Mr. PRESIDENT: I do not recognise any party which consists of less than six members and so, as they are only two or three, they cannot be considered as belonging to any party for our purposes.

The Bengal Primary Education (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg to move that the Bengal Primary Education (Amendment) Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. A. K. Fazlul Huq, Minister-in-charge of the Education Department,
(2) Mr. Bankim Chandra Datta,
(3) Mr. Kamini Kumar Dutta,
(4) Mr. Humayun Kabir,
(5) Begum Hamida Momin,
(6) Rai Brojendra Mohan Maitra Bahadur,
(7) Mr. Latafat Hossain,
(8) Mr. W. F. Scott-Kerr,
(9) Khan Bahadur M. Abdul Karim,
(10) Mr. Kader Baksh, and
(11) the mover,

with instructions to submit their report within two months from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Sir, I have fully explained my reasons for bringing in this amending Bill in the Statement of Objects and Reasons; so, I do not like to take much time of the House. This Bill is mainly concerned with municipal areas. There is a provision in the Act of 1919 to submit schemes for Government sanction, but that section has so long remained a dead letter. Out of the 118 municipalities in Bengal, very few have obtained the sanction of Government for that purpose. My proposal, therefore, is that the municipalities may be asked to submit their schemes within a course of five years and also to compel them to introduce compulsory primary education within their own respective areas. It is a great shame to us that while in the whole of India to-day compulsory education is being given effect to, in Bengal only partially it has been given effect to in the Calcutta Corporation and wholly in the Chittagong Municipality. As compared to that, there are 63 municipalities in the Punjab, 36 in the United Provinces and 7 in the Central Provinces where compulsion has been enforced.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that the Bengal Primary Education (Amendment) Bill, 1940, be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. A. K. Fazlul Huq,
(2) Mr. Bankim Chandra Dutta,
(3) Mr. Kamini Kumar Dutta,
(4) Mr. Humayun Kabir,
(5) Begum Hamida Momin,
(6) Rai Brojendra Mohan Maitra Bahadur,
(7) Mr. Latafat Hossain,
(8) Mr. W. F. Scott-Kerr,
(9) Khan Bahadur M. Abdul Karim,
(10) Mr. Kader Baksh, and
(11) the mover,

with instructions to submit their report within two months from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Mr. MESBAHUDDIN AHMED: I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

Mr. PRESIDENT: Amendment moved: that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to support the amendment moved by my friend Mr. Mesbahuddin Ahmed. From the Statement of Objects and Reasons, it is evident that the main objects of this amending Bill are two-fold, namely, to provide compulsory attendance at school of all children of ages between 6 and 11 years within the course of five years: that is, within five years a municipality must submit its scheme and if it fails to do so, then the Inspector of Schools will draw up a scheme for the municipality. But under the Act which my friend seeks to amend by this amending Bill, the municipality has to find 50 per cent. of the cost. So, it is necessary and only fair that the municipalities of Bengal should be consulted on such an important change. Out of 128 municipalities, only one municipality, namely, the municipality of my honourable friend—Chittagong—was able to introduce compulsory primary education up till now. So, it is not fair that such a measure should be brought in without obtaining their views on this question. With regard to the second object of the Bill, namely, to make provision for religious instruction in primary schools, whether these instructions can be imparted without difficulty or not is another very important point on which the opinions of the municipalities should be obtained. On these grounds, I support Mr. Mesbahuddin Ahmed's amendment, and I hope the House will accept it.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Mesbahuddin Ahmed: that the Bengal Primary Education (Amendment) Bill, 1940, be circulated for the purpose of eliciting opinion thereon by the 31st December, 1940.

(The motion was agreed to.)

The House stands adjourned till 2-15 p.m. on Tuesday, the 27th August.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 27th August, 1940.

Members absent.

The following members were absent from the meeting held on the 23rd August, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.
(2) Mr. Hamidul Huq Chowdhury.
(3) Mr. Humayun Reza Chowdhury.
(4) Mr. Narendra Chandra Datta.
(5) Mr. Kamini Kumar Dutta.
(6) Khan Bahadur Alhadj Khwaja Muhammad Esmail.
(7) Mr. Mahomed Hossain.
(8) Khan Bahadur Syed Muhammad Ghaziul Huq.
(9) Maulana Muhammad Akram Khan.
(10) Mr. W. B. G. Laidlaw.
(11) Dr. Radha Kumud Mookerji.
(12) Khan Bahadur Mukhlesur Rahaman.
(13) Khan Bahadur Kazi Abdur Rashid.
(14) Mr. W. F. Scott-Kerr.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 27th August, 1940, at 2-15 p.m. being the seventeenth day of the Second Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Radiology and Electro-therapy bloc for the Medical College, Calcutta.

83. Rai MANMATHA NATH BOSE Bahadur (on behalf of Raja Bhupendra Narayan Sinha Bahadur, of Nashipur): Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state if there is a proposal to establish a bloc for advanced radiology and electro-therapy in the Calcutta Medical College? If so, what would be the approximate cost of the said establishment? When will it be opened? Who will be placed in charge of the said department and what will be his salary?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, Minister in charge of Public Health and Local Self-Government Department): The proposal is under my consideration and details have not yet been worked out.

Rai MANMATHA NATH BOSE Bahadur: May I be permitted to enquire by what time it will be worked out?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is very difficult to say exactly by what date it will be worked out, but I hope it will be shortly worked out.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if any provision has been made in the budget for next year in respect of this item?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The budget for the next year has not yet been framed.

Mr. HUMAYUN KABIR: Have the Government any intention to include expenditure on this item in the budget proposals for next year?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the next year's budget proposals are now confidential and it is impossible for me to disclose them.

Mr. HUMAYUN KABIR: May I take it in that case that Government have no intention to take it up next year?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: My honourable friend is entitled to draw his own conclusion in the matter.

Elections to the Faridpur District Board.

84. Mr. HUMAYUN KABIR: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) when the elections to the Faridpur District Board took place last;

(*b*) whether the members were elected directly or through existing local boards;

(*c*) whether local boards have since been abolished;

(*d*) when the nominations to the District Board were made to complete its membership;

(*e*) when the Hon'ble Minister proposes to order the next general election of the Board; and

(*f*) whether constituencies have been delimited, if so, their names and extent; if not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) and (*b*) The members were elected by the different local boards of the district. A statement giving the dates is laid on the Table.

(*c*) Yes.

(*d*) On the 21st December, 1936.

(*e*) The next general election of the District Board will be held after the constituencies have been delimited by Government under the Rules for Direct Election to District Boards.

(*f*) The present term of the District Board will expire in January, 1942, and steps will be taken to delimit the constituencies in due time before that date.

Statement referred to in the reply to question No. 84.

Sadar—17th March, 1936.
Goalundo—21st March, 1936.
Gopalganj—28th May, 1936.
Madaripur—29th May, 1936.

Mr. HUMAYUN KABIR: Arising out of (*b*), will the Hon'ble Minister be pleased to state when the Local Board elections were held?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The dates are mentioned here in the statement.

Mr. HUMAYUN KABIR: No; that concerns the election of members of the District Board from the Local Board, but my question is, when were the elections of the Local Board held?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I ask for notice.

The Bengal Alluvion and Diluvion (Amendment) Bill, 1940.

Mr. PRESIDENT: The House will now take up the Bengal Alluvion and Diluvion (Amendment) Bill, 1940. I have to announce that His Excellency the Governor has been pleased to accord previous sanction to the introduction of this Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bengal Alluvion and Diluvion (Amendment) Bill, 1940, be taken into consideration.

Sir, it is a very simple measure intended to remove a lacuna in the existing Act which has been discovered by Their Lordships the Judges of the Judicial Committee of the Privy Council, namely, that in the existing Act there is no provision for reassessing revenue on the land which has been re-formed *in situ* and for which abatement of land revenue was granted before. Hitherto, this used to be treated as added land. But Their Lordships of the Judicial Committee held that this land should be treated not as an added land but as re-formation *in situ* and that there was no provision in Act IX of 1847 for the reassessment of such land. The zemindar is entitled to abatement of land revenue and the Collector shall allow such abatement the moment there has been a diluvion and the fact has come to his notice on survey. But when the land reappears, there is no provision under which he can ask the zemindar to pay additional land revenue though the possession remains

with the zemindar. Therefore, that creates a very anomalous position, namely, that the zemindar gets advantage of the diluvion but when the land reappears as a re-formation *in situ*, he can refuse to pay the Government revenue; and it is just to remove this lacuna that this Bill has been introduced.

Mr. PRESIDENT: Motion moved: that the Bengal Alluvion and Diluvion (Amendment) Bill, 1940, be taken into consideration.

The question before the House is: that the Bengal Alluvion and Diluvion (Amendment) Bill, 1940, be taken into consideration.

(The motion was agreed to.)

Clause 1.

Mr. PRESIDENT: The question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Clause 2.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I understand that there is a Government amendment on the lines of my amendment No. 5, and I am told that the Hon'ble Minister will move that amendment: that is why I hesitate to move my amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I remember that I gave notice of an amendment suggesting that the words beginning with "shall" and ending with "and" in the middle of clause 2 should be omitted: that will cover practically the amendment suggested by my friend Khan Bahadur Naziruddin Ahmad. But I do not find that amendment on the agenda paper here.

Mr. PRESIDENT: I have ascertained from office that no notice for such an amendment has been received; nor has it been circulated.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I take it that by mistake the amendment has not reached the Council office. But I am sure that I signed the notice and sent it to my office. It is probably due to laches of my department that the notice has not reached your office.

May I, Sir, with your permission, move a short-notice amendment if none of the members object to that, because it is practically a re-draft of the amendment suggested by Khan Bahadur Naziruddin Ahmad?

Mr. PRESIDENT: It is proper that notice of amendments should be given by persons other than the member who has moved the motion. In the case of Government amendments also, it is proper that it should be moved by a Minister or a member other than the Hon'ble Minister who has moved the original motion, because he should not move an amendment to his own motion.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I suggest, Sir, that Khan Bahadur Naziruddin Ahmad will move this amendment?

Mr. PRESIDENT: Yes.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move, as a short-notice amendment, that the words "shall be assessed at the same rate as that obtaining for the *sadar jama* of the remainder of the estate on the date on which possession is resumed," occurring in lines 12-14 of the proposed sub-section 5A, be omitted.

Sir, this is only a redraft of the amendment of which I gave notice. The reason for this amendment is this: the proposed section tries to lay down a principle of assessment. When a portion of an estate has been washed away by diluvion, the proprietor gets a deduction. And if any part of the estate reappears, there is a rule by which revenue should be assessed for the land which so reappears. The principle sought to be laid down by the proposed amendment is that the revenue to be assessed on the land reappearing "shall bear to the *sadar jama* the same proportion as the area of the land so reformed bears to the area the remainder of the estate." These words are already there and the passage proposed to be omitted is a needless duplication. The words are needless and amount to mere surplusage. In order to prevent this duplication, I have suggested the omission of the unnecessary words. What remains after the omission is sufficient to make the meaning absolutely clear. The double provision is not harmless as it might create confusion. This is the reason for the amendment. It is a purely drafting amendment. It does not alter the text of the clause: it rather makes the meaning more clear. I hope the amendment will be accepted.

Mr. PRESIDENT: I take it that there is no objection to this short-notice amendment which is more or less of the nature of the amendment tabled originally by khan Bahadur Naziruddin Ahmad in different words.

(No objection was raised.)

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill, the words "shall be assessed at the same rate as that obtaining for the *sadar jama* of the remainder of the estate on the date on which possession is resumed, and" appearing in lines 12-14 of the proposed section 5A, be omitted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to explain the amendment a bit. It is not really an amendment of a very immaterial nature; it is not merely a duplication which it seeks to remove. Sir, really there is a very serious defect, in my opinion. Here, it is stated that there are two criteria given, that the jama of the new land shall be assessed at the same rate as the *sadar jama* prevailing in the remainder of the estate, it being done on the basis of the proportion which the area of the re-formed land bears to the area of the remaining land. These are the two criteria given whereas in the original Act, of which this is an amendment, in section 5 there is a provision for abatement of revenue to be given for diluvion, without any attempt having been made to give abatement of revenue on the basis of the revenue of the remainder of the land. There, it is clearly stated that either it should be given on the basis of the title of the diluviated land or on the basis of the area of the diluviated land, and this was done with a definite object. Sir, the *sadar jama* is always assessed on lump basis and in 1793 when assessments were made, they were made on the basis of the assets as found; so the *sadar jama* does not bear any relationship to the area of the estate unless it is artificially derived by dividing the *sadar jama* by the area. If it is retained here, the question will arise whether the *sadar jama* was assessed on the basis of any particular rate and whether that particular rate was in respect of cultivated lands only or including uncultivated lands also. All the complications will arise and at the same time they are absolutely unnecessary. When we say that revenue will bear the same proportion to the revenue of the remaining area, as the area of the re-formed land to the area of the remaining estate, that is enough. By giving this additional criterion, not only we make it complicated but we make it misleading. For that reason, Sir, we have thought it fit that this should come out of the section in order that the section may be absolutely clear, and there may not be any misapprehension or misconception. I, therefore, support it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government have much pleasure in accepting the amendment. Certainly it is an improvement in drafting. Of course, here the word "rate" has been used in the dictionary sense and not in the technical sense. But there is room for misunderstanding and one is liable to be misled by the word "rate" which has a technical meaning in revenue matter. So, it will

be an improvement no doubt if the word "rate" is omitted. There are two reasons for this amendment being moved by the Khan Bahadur Sahib. One is to do away with the room for misunderstanding and the second is that these words beginning with "shall" and ending with "and" are really unnecessary, because the lines that follow beginning from "shall" and ending with "estate" are enough to convey the same meaning. That is why I think this is an improvement in drafting also.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, the words "shall be assessed at the same rate as that obtaining for the *sadar jama* of the remainder of the estate on the date on which possession is so resumed, and" appearing in lines 12 to 14 of the proposed section 5A, be omitted.

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 2, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 3.

Mr. PRESIDENT: Clause 3 stand part of the Bill.

The question before the House is: that clause 3 stand part of the Bill.

(The motion was agreed to.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to move that after clause 3 of the Bill, the following new clause be added, namely:—

"4. The provisions of section 5A shall apply to reformed lands of same nature previously assessed to revenue, and the assessment thereof shall be revised if necessary, according to the provisions of section 5A."

Sir, the object of amending this Act, as the Hon'ble the Revenue Minister has himself explained, is that the diluviated land after re-formation should be considered as part of the estate. As there was no provision about this assessment previously, so it should be assessed at the old rate. Sir, the amending Act does not contemplate cases where assessment has already been made in respect of such diluviated

lands which have re-formed after diluvion according to the old practice, as if these were additional lands added to the estate as accretions. So, Sir, a great defect will remain in the Act unless some provision is made in respect of them. Because, the cases where re-formation *in situ* has already been assessed as accretion, and in such cases 65 per cent. of the assets has been fixed as revenue, on the basis of temporarily-settled estates, the revenue of these re-formed lands ought to be revised according to the provisions of the amending Act; otherwise, it will be inequitable and unfair on those people. For that reason, Sir, I have moved that it is absolutely necessary that the benefit of this provision of the amending Act should also be given to the people whose lands have been assessed to revenue on re-formation after diluvion on the basis of a law which had no application to such laws, and their revenue should also be revised according to the provisions of this amending Act.

With these words, Sir, I move my amendment.

Mr. PRESIDENT: Motion moved: that after clause 3 of the Bill, the following new clause be added, namely:—

"4. The provisions of section 5A shall apply to reformed lands of same nature previously assessed to revenue, and the assessment thereof shall be revised if necessary, according to the provisions of section 5A."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, as an ex-Revenue Officer my friend the Khan Bahadur Sahib's sense of fairness has prompted him to give notice of this amendment. He wants to be fair to everybody and does not want a particular section to get advantage of the law as amended, according to the decision of the Privy Council. Sir, the proposal is that not only in cases of new re-formations *in situ* they should get advantage of the law but also those lands which were previously assessed as added lands should be treated as re-formations *in situ* if they were really so at the inception. The amendment suggested by the Khan Bahadur gives rise to some difficulties, namely, how will Government decide whether the land was originally re-formed *in situ* or was an added land. They will have to refer to certain documents, and certain maps. Then, again, whether the amendment as suggested by the mover should apply at the end of the term of existing settlements or in the middle of the existing term. Also, whether Government should take action on their own initiative or should they move only on the application of parties. All these questions will have to be considered before they can come to a decision and naturally these questions are not free from difficulties and they require very careful consideration before Government can agree to accept the amendment now suggested by the honourable member. But I can tell him that I have got every sympathy with the

principle underlying this amendment. It is only fair that not merely a particular section of proprietors should get advantage of the amended Act, but also all other zemindars so long as the land in their possession fulfils the conditions mentioned in the Act. I therefore suggest, Sir, that let the honourable mover withdraw his amendment. I undertake to have the points carefully examined and if we are satisfied that it is necessary and desirable to insert an amendment on the lines suggested by him, I shall introduce an amending Bill in this House so that the honourable members may have the first opportunity of considering the Government proposals. At the earliest opportuntity I propose to do so, but I do not like to commit Government to the principles of a complicated measure of this character without a careful scrutiny of the proposal in all its implications.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: After what has been stated by the Hon'ble Minister, I ask for leave of the House to withdraw my amendment.

The amendment of Khan Bahadur Saiyed Muazzamuddin Hosain was then, by leave of the House, withdrawn.

Mr. PRESIDENT: The question before the House is: that the Title and the Preamble be added to the Bill.

(The motion was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bengal Alluvion and Diluvion (Amendment) Bill, 1940, as settled in the Council, be passed.

Mr. PRESIDENT: Motion moved: that the Bengal Alluvion and Diluvion (Amendment) Bill, 1940, as settled in the Council, be passed.

Khan Bahadur SAIYED MAZZAMUDDIN HOSAIN: Sir, in rising to support the motion I have to make one or two remarks. The first point is, as I have shown by one of my amendments, that the Bill is not as comprehensive or complete as it ought to have been if strictly the ruling of the Privy Council had been followed. I may point out that no provision in this amending Bill has been made in respect of similar cases where revenue has been fixed on such lands as accretions at a very high and abnormal rate. Further, I find that no provision has been made also in respect of the estates which have been entirely diluviated. According to the Privy Council ruling, the estate after diluvion still continues to be the property of the proprietor though submerged under water; and as soon as it reappears, it becomes the

property of the proprietor who will be liable to pay revenue only when this amending Bill has been passed. If this law applies in the case of partly diluviated estate, I may say that in fairness and equity it should also apply in the case of the estate which has been entirely diluviated, for no fault of the proprietor. Should the proprietor lose his estate only because as a matter of chance his entire estate is diluviated? He will not get back the land even after re-formation *in situ*, whereas another man whose estate has not been so diluviated and has probably been paying Re. 1 as *sadar jama* in place of Rs. 10,000 previously paid for the entire estate, will get back the re-formed area at the old rate of revenue. I feel that this Bill is not comprehensive and complete as it ought to have been if it were drafted in accordance with the spirit of the Privy Council ruling. I hope my honourable friend the Hon'ble Minister in charge of Revenue will take this matter into consideration and bring forward another amending Bill in the near future.

I may refer to another fact in this connection. A similar provision regarding diluviated land of *raiyats* was considered in connection with the Bengal Tenancy First Amending Act and section 86 (A) deals with this matter. In that section provision was made to the effect that the *raiyat* could get back the diluviated land only if it is re-formed within 20 years and that he will have to pay rent for the period that the land is under water or four years' rent, whichever is less. That is the provision of section 86 (A) of the Bengal Tenancy Act. So, Sir, it will be seen that here we find an altogether differential treatment meted out to the *raiyats* in the matter of re-formed diluviated land. If the land is re-formed after 20 years, he will not get the land: if it is re-formed within 20 years he will get it but will have to pay arrear rent. This disparity ought to be removed, otherwise the impression will gain ground that this particular law has been enacted at the instance of the landlord-ridden ministry. So, I think that in order at least to save themselves from this discredit, Government should come forward at an early date with a similar amendment to section 86 (A), viz., that whenever the land is re-formed, the *raiyat* will get it without payment of any arrear rent just as has been done in the case of zemindars' Talukdars' diluviated land. If this disparity still remains, it will be thought that zemindars are treated in one way and *raiyats* in another way. I, therefore, request the Hon'ble Minister to bring forward a comprehensive Bill and also to take steps to amend section 86 (A) of the Bengal Tenancy Act on the same lines.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, my friend has described the ministry as landlord-ridden ministry. But I may say that although there are landlords in the ministry, they are landlords with a pro-tenant leaning and not with a pro-landlord mentality.

I am grateful to the honourable member for the valuable suggestions he has made but they are by no means free from difficulties, as I am sure he himself realises. However, I undertake to have his suggestions examined.

As regards the other point raised by him, namely, if the whole estate is diluviated what will happen and whether it will come under this Act according to the principles of the Privy Council ruling, I feel that there is some doubt as to whether the Privy Council ruling really covers estates altogether diluviated or not. It is true that the Hon'ble Judges of the Privy Council have said, whether the land is under or above water, the right of proprietorship remains with the proprietor. But there is one very important point in a case of partial diluvion as it was in the case before the Privy Council; the proprietor pays at least some amount of land revenue. When he ceases to pay any revenue, whether he still retains the right of proprietorship or not is a point which requires examination. So, in any case, these proposals of my honourable friend are by no means free from difficulties. Indeed, they bristle with difficulties. I will certainly examine them, but it is not possible for me at this stage to make any promise one way or the other.

Mr. PRESIDENT: The question before the House is: that the Bengal Alluvion and Diluvion (Amendment) Bill, 1940, as settled in the Council, be passed.

(The motion was agreed to.)

The Bengal Co-operative Societies Bill, 1940.

Mr. PRESIDENT: The House will now take up the Bengal Co-operative Societies Bill, 1940.

As the Chair considered that some of the sections of this Bill would require the sanction of His Excellency the Governor, the Bill was referred to His Excellency who has been pleased to give his previous sanction for the moving of this Bill in this House.

Clause 1.

The question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Clause 2.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: I beg to move that after paragraph (*a*) of clause 2 of the Bill, the following new paragraph be inserted, namely:—

"(*aa*) 'advisory committee' means a committee appointed under section 9."

Sir, it is not necessary for me to speak at length to emphasise the necessity of this amendment, because I have given notice of an amendment to clause 9, which seeks to define the function of the Advisory Committee.

Mr. PRESIDENT: Amendment moved: that after paragraph (*a*) of clause 2 of the Bill, the following new paragraph be inserted, namely:—

"(*aa*) 'advisory committee' means a committee appointed under section 9."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose this amendment. I submit that the question of Advisory Committee does not arise until and unless we could come to clause 9. I do not know whether your ruling will be to take it up at this stage or Government will be given an opportunity of considering it along with other amendments notices of which have been given with reference to clause 9. May I know if I can submit my arguments now or wait till the House has considered other amendments in connection with clause 9?

Mr. PRESIDENT: I think it is better to postpone consideration of this amendment till clause 9 is taken up.

Mr. SHRISH CHANDRA CHAKRAVERTI: Mr. President, Sir, I beg to move that paragraph (*b*) of clause 2 of the Bill be omitted.

As we do not agree to the system of audit by a person authorised under section 75 of this Bill, we propose the deletion of this sub-clause (*b*) of clause 2.

Mr. PRESIDENT: Amendment moved: that paragraph (*b*) of clause 2 of the Bill be omitted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose this amendment of my honourable friend, Mr. Chakraverti, his reason therefor being that he is against the principle underlying clause 75 of this Bill which seeks not only to provide for the appointment of audit officers but also for the mode of payment of audit fees. If this paragraph is omitted, the result will be that Government will

have to find a large sum of money for an independent audit agency. Sir, this point was raised by some of my honourable friends who supported the motion of Mr. Shrish Chandra Chakraverti the other day for referring the Bill to a Select Committee when I made my submission that it was an impracticable proposition, so far as the innumerable village societies are concerned. On that occasion, I also explained to the House that so far as the central and urban banks were concerned, Government had accepted the principle that audit should be separated from general administration and that for this purpose we had already got a specially trained staff under the Chief Auditor who have no connection with the general administration of co-operative societies. I also explained that it was not possible for Government at this stage to separate audit absolutely from the control of the Registrar who must be placed at the head of the administration. But, as I have already said a moment ago, it would be an impracticable proposition to have a separate audit staff for the 30,000 village societies in Bengal, therefore, I submit that we cannot agree to omit this clause which seeks to define what the form of audit should be.

Before I resume my seat, Sir, I may be permitted to submit to the House that I expected a better treatment of this Bill from the honourable members of this House. I never thought that matters which had been discussed in the other House would again be tabled *verbatim* here, discussed over again and then rejected——

Mr. PRESIDENT: Order, order. It is against parliamentary etiquette to refer to matters that happened in the other House.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: All right, Sir. But I expected a better treatment of this Bill at the hands of the honourable members. However, Sir, if it is the pleasure of this House to table motions identical to those which had already been discussed, I have nothing to say.

With these few words, I submit that I have to oppose this motion.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, with regard to this amendment I submit that my name also appears as one of its sponsors, though my reasons for doing so are quite of a different nature. I should in the first instance like to draw the attention of the House to clause 75 of the Bill. Section 75 of the Bill reads as follows: "The accounts of every co-operative society shall, at least once in each year, and by such date as may be prescribed, be audited by the Registrar or by an audit officer authorised by him in this behalf by general or special order in writing." Clause 75 being what it is, I

should now like to know from the Hon'ble Minister what is the necessity of putting in a definition of the sort that he has put down in sub-clause (*b*) of clause 2 of this Bill. It is there in section 75, namely, "by an audit officer authorised by him (*i.e.*, the Registrar) in this behalf by general or special order in writing." In the definition again the Hon'ble Minister puts it in the same way, viz., "'Audit officer' means a person authorised under section 75 by general or special order to audit the accounts of a co-operative society." I submit, Sir, this definition is absolutely unnecessary. But it is a clog on the powers of appointment of audit officer by co-operative societies themselves for the purpose of carrying on audit of their own accounts. It is within the knowledge of those who have some idea of the workings of the village societies as well as of central co-operative banks that these societies as well as central banks have got to get their accounts audited regularly from day to day or from week to week by appointment of an audit officer.

Sir, my objection to paragraph (*b*) of section 2 is twofold. Firstly, it is unnecessary in view of section 75; secondly, it would be a clog on the powers of the village societies as well as of the central co-operative banks to have their own audit officer to audit their own accounts from day to day. We will have no objection to the Registrar having a staff of audit officers to audit the accounts of all the village societies at the end of each year either by himself or by his own officers at Government cost.

On these two grounds, Sir, I support the amendment which has been moved by my friend Mr. Shrish Chandra Chakraverti that this paragraph (*b*) should be omitted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I submit that the consideration of this paragraph should be postponed. It depends on a consideration of clause 75 and we do not know what the attitude of this House would be with regard to clause 75. This seems to be consequential upon deletion of some amendment on clause 75. In these circumstances, I should submit that this paragraph be postponed till we consider and make up our mind with regard to clause 75.

Mr. PRESIDENT: I propose to postpone consideration of this amendment, as suggested. It will be taken up after section 75 has been disposed of.

Rai Sahib JATINDRA MOHAN SEN: Sir, my amendment was passed over during my temporary absence. My amendment relates to clause (*b*).

Mr. PRESIDENT: The House has already decided it and it cannot be reopened.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in paragraph (*c*) of clause 2 of the Bill, the words "or deemed to have been registered" be omitted.

My reason, Sir, is very simple. Clause (*c*) as it stands runs to this effect: " 'by-laws' means the by-laws registered or deemed to have been registered under this Act, and includes a registered amendment of the by-laws." Now, Sir, there is a meaning in the expression "by-laws means by-laws registered" but there is no meaning in the expression "deemed to have been registered." By-laws must have been either registered or not registered. I do not understand how there can be any intermediate stage between registered and not registered. The difficulty further is if it is to be deemed to have been registered, by whom it is to be deemed to have been registered; whether the Registrar will deem it to be registered, or whether the Provincial Government will deem it to be registered, or whether the society will deem it to be registered. So, this clause to my mind seems to be very vague and will be open to various sorts of interpretations. Therefore, I propose that the words "or deemed to have been registered" should be deleted in order to make the definition quite clear and simple.

Mr. PRESIDENT: Amendment moved: that in paragraph (*c*) of clause 2 of the Bill, the words "or deemed to have been registered" be omitted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I submit that the amendment is unnecessary. The scheme of the Bill as to registration is this: There was an old Act of 1902. Some by-laws were registered under the old Act. Then came the Act of 1912; some by-laws were registered under the Act of 1912. The expression objected to by my friend means that the by-laws which were registered under the Act of 1902 would be deemed to have been registered under the Act of 1912. After the passing of the Act of 1912, this Act—the Act of 1912—would apply to all societies and by-laws. This is the effect of the words "deemed to have been registered." Now, we come to the Bill of 1940. Now "by-laws" under the present Bill would include those by-laws which were made under the Act of 1902 or under the Act of 1912 or under this Act. The expression "deemed to have been registered under this Act" eliminates the use of the expressions "by-laws registered under the Act of 1902 or of 1912." It prevents duplication and triplication of language. It means that all by-laws, whether registered under the Act of 1902 or under that of 1912, will be governed by the provisions of this Bill. The use of the expression is highly convenient, and there is nothing meaningless or anomalous in it. It is rather a simplification of the text. In fact, this language has been taken bodily from the existing words of an appropriate section of the Act of 1912.

In these circumstances, I submit that the words should stand.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, after what my honourable friend Khan Bahadur Naziruddin Ahmad has said, I do not think there is anything for me to advance in opposing this amendment of my friend Rai Sahib Jatindra Mohan Sen. There is, however, one further point which I think I should mention to the House as to why a clause like this is necessary. Sir, it may be that after the registration of the by-laws by the Registrar an objection is taken, but by the time the objection is decided, the society may have done something on the basis of by-laws registered as such and on that objection it may be possible that the Registrar takes a different view. The difficulty would then arise as to what will happen to the act which the society has already done on the basis of the by-laws registered. From that point of view, Sir, this has been thought necessary. Unless we have power to regularise the act which has been already performed by the society, it will be very difficult for any society to function. I, therefore, submit, Sir, the expression is necessary and should not be omitted from this clause.

Mr. PRESIDENT: The question before the House is: that in paragraph (*c*) of clause 2 of the Bill, the words "or deemed to have been registered" be omitted.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in clause 2 of the Bill, in paragraph (*d*), for the words "the objects of which include," appearing in lines 2 and 3, the words "whose primary object is to create" be substituted.

Sir, the paragraph reads "central co-operative land mortgage bank" means a co-operative society the objects of which include the creation of funds. As the wordings have been put here, it would appear that lending money or raising money or creating funds by central co-operative land mortgage banks would be a secondary business of the bank. I want to emphasize the fact that the primary object would be to create funds to be lent to co-operative societies. Therefore, Sir, I put it in this way instead of putting in the way it has been done, namely, the objects of which include the creation of funds.

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill, in paragraph (*d*), for the words "the objects of which include" appearing in lines 2 and 3, the words "whose primary object is to create" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose this amendment. When honourable members come to consider Chapter XI which deals with the working of the land mortgage

banks, they will certainly find that it is not only to create funds for the purpose of lending that the land mortgage banks will have to be established, but that there are various other objects which the land mortgage banks will have to consider in the course of their functioning. And it is just to cover those cases that we have thought it fit to make this definition as elastic as possible. It may be that they will have to do other banking business as well and if the primary object is only to do this, then I submit that they will be restricted in their proper functioning. I submit, Sir, the objection taken by my friend Mr. Das is, if I may say so, based upon some amount of misapprehension. The language used here does not do anybody any harm. On the contrary, it puts the functioning of the land mortgage banks on a more elastic basis. It is from that point of view that we have thought it fit to put this definition in this clause and I submit, Sir, there is no necessity to accept the amendment of my honourable friend.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, in paragraph (*d*), for the words "the objects of which include" appearing in lines 2 and 3, the words "whose primary object is to create" be substituted.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in clause 2 of the Bill, at the end of paragraph (*f*), the following be added, namely:—

"and does not mean a company defined in and registered under the Indian Companies Act, 1913."

Sir, I submit this amendment and amendment No. 37 may be taken together, for one is dependent on the other.

Mr. PRESIDENT: How?

Mr. LALIT CHANDRA DAS: Sir, if this definition is accepted, then clause 6 would be absolutely unnecessary.

Mr. PRESIDENT: You move your amendment now. If it is found unnecessary, it will be deleted.

Amendment moved: that in clause 2 of the Bill, at the end of paragraph (*f*), the following be added, namely:—

"and does not mean a company defined in and registered under the Indian Companies Act, 1913."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I beg to oppose this amendment. When we think of registering a society under this Act, we think only of a co-operative society and we do not think of any company or anything else which may be functioning under any other law for the time being in force. I submit, Sir, for the present we are defining a co-operative society and the definition must be to include a society which we seek to register under this Act. Whether we seek to exclude anything else or not, I submit, will not come within the purview of the definition of this particular clause. From this point of view, I oppose the amendment.

Dr. RADHA KUMUD MOOKERJI: Sir, I cannot follow the logic just now advanced by the Hon'ble Minister for Co-operation. If he thinks that co-operative society is a society which is to work under this Act and if he does not imply the negative, I do not see what benefit he derives by having some kind of ambiguity in the law. Why does he not plainly state both the positive and negative aspects of what he means? If the co-operative society is to be a society whose work will be strictly limited by this Act and if the provisions of the Indian Companies Act would not apply to such a co-operative society, if this is your whole intention, why don't you express it clearly by not confining yourself simply to the positive aspect of the matter? By not giving the negative aspect you render the whole thing nugatory. Why don't you at the outset give us a complete picture of what you mean and not reserve at this stage your ulterior intention?

Mr. HUMAYUN KABIR: Mr. President, Sir, I regret I have to differ from my honourable friend who has just now sat down. In clause 6 which will be taken up later on, it is provided that the Indian Companies Act shall not apply to co-operative societies. So, the negative side which he wants will be available in clause 6. Hence, it seems unnecessary to say that the co-operative societies registered under this Act shall not be covered under the Indian Companies Act twice. So, I think, Sir, this amendment is not necessary.

Khan Bahadur NAZIRUDDIN AHMAD: Mr. President, Sir, I have another objection to the proposed amendment. It seeks to introduce an unnecessary word—"company". This word has not been used anywhere in the Bill. We are concerned here only with co-operative societies and are in no way concerned with companies. Under the Companies Act we are certainly concerned with companies. But under this Bill we are concerned with societies and not companies. The introduction of the word "company" in the Bill will lead to confusion as well as complications. Apart from the objections raised by the Hon'ble Minister and by Mr. Humayun Kabir, I have this additional reason to object to it.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, at the end of paragraph (*f*), the following be added, namely:—

"and does not mean a company defined in and registered under the Indian Companies Act, 1913."

(The amendment was negatived.)

Mr. PRESIDENT: The Chair is given to understand that Government does not like to proceed with the other amendments to-day; so, the House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 28th August, 1940.

Members absent.

The following members were absent from the meeting held on the 27th August, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.

(2) Mr. Narendra Chandra Datta.

(3) Mr. Kamini Kumar Dutta.

(4) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(5) Mr. Kanai Lal Goswami.

(6) Khan Bahadur Syed Muhammad Ghaziul Huq.

(7) Khan Bahadur M. Abdul Karim.

(8) Maulana Muhammad Akram Khan.

(9) Mr. W. B. G. Laidlaw.

(10) Khan Bahadur Kazi Abdur Rashid.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 28th August, 1940, at 2-15 p.m. being the eighteenth day of the Second Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Prosecution of shopkeepers for selling articles at a higher price than that fixed by the Government.

85. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Krishna Chandra Roy Chowdhury): (a) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state whether it is a fact that in all cases in which prosecutions had to be launched for contravention of the provisions of the Ordinance requiring them to sell articles at prices as fixed by the Government, the offenders have been Hindu shopkeepers cent. per cent.? If so, what is the reason therefor?

(b) How many cases have been sent up by the Food Controlling Officer from September, 1939, to June, 1940? Will he please state the names of the owners of the firms with their addresses?

(c) How many Food Controlling Officers were appointed for regulating the prices in Calcutta market? What are their names, qualifications and salaries? Will the Hon'ble Minister also please state the number, names and addresses of shops inspected and the date and time also of such inspections made by them from September, 1939, to June, 1940?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. H. S. Suhrawardy, Minister in charge of the Commerce and Labour Department): (a) No.

(b) and (c) There are no Food Controlling Officers. The questions do not therefore arise.

The Bengal Co-operative Societies Bill, 1940.

Mr. PRESIDENT: The House will now resume discussion of the Bengal Co-operative Societies Bill, 1940.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in clause 2 of the Bill, the following new paragraph be added at the end, namely:—

"(*u*) 'Collector' means the Collector of a district and includes a Subdivisional Officer".

Sir, I move the addition of this sub-clause (*u*) in clause 2, because I have proposed in a subsequent amendment that certain powers be given to the Collector in place of the Registrar. For example, in the Bill it is provided that the power of distraint has been given to the Registrar. I propose that this power should be given to the Collector of the district. This amendment may, therefore, be postponed until that question is reached.

Mr. PRESIDENT: This motion is now postponed. If the amendment for conferring powers on the Collector is accepted, then only this amendment will be in order.

Clause 3.

Mr. PRESIDENT: Clause 3 stand part of the Bill.

The question before the House is: that clause 3 stand part of the Bill.

(The motion was agreed to.)

Clause 4.

Mr. PRESIDENT: Clause 4 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 4 of the Bill, in sub-clause (*1*) for the words "so far" in line 5, the words "in so far" be substituted.

Sir, this is in accordance with the language used in other parts of the Bill.

Mr. PRESIDENT: Amendment moved: that in clause 4 of the Bill, in sub-clause (*1*) for the words "so far" in line 5, the words "in so far" be substituted.

Mr. HUMAYUN KABIR: Sir, I beg to oppose this amendment for the reason that it is not necessary. The meaning of the clause is quite clear. From the point of view of language, this amendment will mark a definite deterioration. If this amendment is carried, the clause will read as follows: "shall in so far as they are not inconsistent with the provisions". Thus, we have two "ins" for nothing. If there is no difference in meaning, there is no reason why we should have two "ins". Besides, it will mean additional expenditure of paper, printing and ink. Of course, we know that the honourable members of the Coalition Party are not affected by the wastage of paper and ink and that is the reason why we find that they send 1,000 or 1,200 amendments. These are first cyclostyled and then printed, and afterwards there is an epidemic of "not moving" those amendments. On this ground, I oppose the amendment.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I feel it gives a better meaning and I accept the amendment of my friend Khan Bahadur Naziruddin Ahmad.

Mr. PRESIDENT: The question before the House is: that in clause 4 of the Bill, in sub-clause (*1*) for the words "so far" in line 5, the words "in so far" be substituted.

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 4, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 5.

Mr. PRESIDENT: The question before the House is: that clause 5 stand part of the Bill.

(The motion was agreed to.)

Clause 6.

Mr. PRESIDENT: The question before the House is: that clause 6 stand part of the Bill.

(The motion was agreed to.)

Clause 7.

Mr. PRESIDENT: The question before the House is: that clause 7 stand part of the Bill.

(The motion was agreed to.)

Clause 8.

Mr. PRESIDENT: Clause 8 stand part of the Bill.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that clause 8 of the Bill be omitted.

Sir, by this clause it is intended to confer on the Provincial Government the power to exempt any co-operative society or class of co-operative societies from the application of any of the provisions of this Act or of any rules made thereunder, and it is also provided that the Provincial Government may by rules direct that any or such provisions shall apply to such society or class of societies to such extent as may be specified in the rules. Sir, my submission is that this power ought not to be conferred on the Provincial Government. It is the Legislature which can make provision in the body of the Act as to which class of societies or whether any particular society should be exempted from the operation of this Act or not, but no general provision should be made empowering the Provincial Government to exempt any class of co-operative societies or any particular co-operative society from the provisions of the Act. That would be, Sir, conferring on the Provincial Government a power which legitimately belongs to the Legislature, and in clause 8 there is no indication as to which class or classes of societies it is the desire of the Provincial Government to exempt. It may be, Sir, that certain societies which require to be subjected to stringent provisions for their betterment may be excluded from the operation of this Act and so it is not desirable that such extensive powers should be given to the Provincial Government by a provision like this.

Mr. PRESIDENT: Amendment moved: that clause 8 of the Bill be omitted.

Dr. RADHA KUMUD MOOKERJI: Sir, I rise to support the amendment just now moved by Rai Sahib Jatindra Mohan Sen. My reasons, however, are somewhat more academic than the legal ones advanced by my friend. In my opinion, no society which is called "co-operative" should be exempted under any circumstance from the operation of the Co-operative Societies Act. Sir, through this clause the Government is taking upon itself very sweeping powers and we find that although it chooses to characterise a society as co-operative, it destroys the standard by which that character is to be maintained. If it is really a co-operative society, it must come under some Act and its working must be regulated by some definite piece of legislation. But we are asked to go the length of prescribing that the Provincial Government can take any power it may like, even to the extent of calling

a co-operative society as a non-co-operative society. I see no justification for this kind of limitless power that the Government is seeking on the plea of promoting the co-operative movement in this province.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to oppose this amendment. My reasons are such as would highly please the Congress. Their objection to the main features of the Bill, so far as we understand from the trend of discussions elsewhere, is that the Government tries to take too much power of interference with the management and working of co-operative societies.

The Government has, in order to meet this objection, introduced this clause to soften the rigours of that power. In fact, Government made a distinction between the two classes of societies—one which was working badly and the other which was working satisfactorily. So far as Government interference was concerned, it has been directed not towards all societies but towards bad societies only. This clause exempts good societies from the restrictive control of Government. I therefore think that Dr. Radha Kumud Mookerji, instead of supporting the amendment, should support the clause itself. He said that he supported the amendment on "economic" grounds. He is too fond of advancing economic grounds though he has not attempted to explain them. He overlooks the obvious fact that the Bill-clause really provides for the relaxation of Government control and interference over good societies. The clause provides a measure of autonomy for good societies. If, therefore, this provision is deleted, the objection on behalf of the Opposition would be all the more justified, because in that case this redeeming feature in the Bill would be gone. In order, therefore, to be consistent with their main contention, the Congress should, in my humble opinion, support the Bill-clause. The opposition in this case is, I submit, a bit hasty and ill-considered.

Mr. HUMAYUN KABIR: Mr. President, Sir, the explanation given by my friend Khan Bahadur Naziruddin Ahmad is certainly a defence of this clause as it stands. But there is one unfortunate lacuna in his explanation. If Government intend that the purpose of this clause is to exempt good societies from the operation of some of the restrictive control of the Government, then why don't they say so? There is no mention here in this clause, as it stands, as to which class of societies shall be exempted from constant interference by the Government, and if my honourable friend Khan Bahadur Naziruddin Ahmad will bring in a short-notice amendment, as he has done on so many occasions, or if there is any other amendment clearly indicating the class of societies which shall be exempted from the supervision of the Government, I am sure that members on this

side of the House will have no objection to accept it. But until that is done, this clause instead of taking away certain powers, in fact gives them more power. It leaves Government to decide as to which societies shall be exempted and which societies shall not be exempted. It does not say anything about the qualifications of such societies.

There is also another point to be taken into consideration in this connection. My honourable friend Khan Bahadur Naziruddin Ahmad referred to a discussion in another place. It may be that the Hon'ble Minister concerned gave an assurance there that the purpose of this clause is to protect good societies from constant interference. Nevertheless we must remember that when this Bill is passed into law and becomes an Act, the assurance of the Hon'ble Minister will have no force in the interpretation of the law; only the language of the sections will have an operative effect. Therefore, unless some such clause is put into the Act itself, the intention of the Hon'ble Minister will remain an impotent wish. It may be that the intention of the Hon'ble Minister is what has been said by Khan Bahadur Naziruddin Ahmad, and if that is so we have no quarrel with him at all, we agree with him —but until it is put on the body of the Statute, that intention of the Hon'ble Minister will remain as a pious intention without producing any effect whatsoever.

Mr. NARESH NATH MOOKERJEE: Sir, there is a great deal of force in what my friend Mr. Humayun Kabir has said. What we are trying to avoid is to give power to Government to decide what societies should come under the purview of this Act and what societies should not. If Government intend not to interfere with the working of the good societies, then let them clearly say so. But if they take the entire power to decide as to which societies will be affected by this Act and which societies not, it makes us suspicious. I may point out that there is another amendment put forward by our group to this effect. I think Government should make quite clear here and now their intention, so that we may know how they will deal with the matter.

Khan Bahadur ATAUR RAHMAN: Sir, I think both sides of the House are working under some misapprehension. I think Government should have some such power. Some time ago we remember that Government took some power to exempt certain persons from payment of personal tax. We objected then to that obnoxious provision; but ultimately, when the rules were framed under that Act and published, we found that that was a reasonable power which Government should possess, because without that power it was not possible to deal with the cases which deserved exemption. The same situation may arise in the administration of this Bill. Suppose, there is a good society or an

infant society which requires to be exempted from the audit fee. There are some societies, very respectable societies, having among themselves licensed and recognised auditors or chartered accountants; their audit reports may reasonably be acceptable to the Registrar. In that case, Government may exempt such societies and need not audit them with the staff of the Registrar. Government cannot say now which societies will be exempted. It may be good, bad or infant societies: and it is impossible to give a definition of the societies which will be exempted from the operation of this Act. So, unless Government have some such general power as defined in this clause, it will be difficult for the Registrar to carry on the administration. I think, therefore, that this clause should be retained and I oppose the amendment.

Khan Bahadur M. SHAMSUZZOHA: Sir, I beg to support the retention of clause 8 of the Bill and oppose its deletion, as proposed by Rai Sahib Jatindra Mohan Sen. The stupendous difficulty in the way of the success of the co-operating movement in this province has been the gross mismanagement of the co-operative societies throughout the length and breadth of Bengal. Improvement of this deplorable state of things can be effected only by strict adherence to some principles and rules. And for this stricter control by Government is absolutely necessary. At the same time, some amount of freedom and liberty of action must also be secured to sound and well-managed societies in order to ensure their healthy growth and development. In order to harmonise these two conflicting aspects of the problem, it has been felt that the Government should be given powers of greater control and supervision over the co-operative societies. There should also be some provision in the statute itself whereby the stringency of the rules may be relaxed by the Government whenever deemed necessary in the larger interest of the movement itself. Now, Sir, the clause under discussion only seeks to empower the Government to decide which of the societies should be exempted and which should not be exempted from the operation of some provisions of the Bill—a power which, I submit, is absolutely necessary if the principal object is to be achieved. All that this clause means is that where a society gives proof of better management, the Government would be enabled to relax some of the stringent provisions of the rules in its case. Similarly, if there be any bad society, Government will come down upon it and apply the rigours of the law. In this view of the matter, I think the Bill-clause should be retained in the form in which it has been drawn up.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, I think I should also oppose the amendment and when my friends opposite hear the facts I hope they will change their minds. I may remind my

honourable friends opposite that there are institutions like the Hindusthan Co-operative Insurance Society which is one of the biggest Bengali Insurance institutions of which everybody is proud. But so far as the orthodox standard of co-operative principle is concerned, it does not reach anywhere near it and on that ground alone I think nobody would like this Insurance Society to be washed out nor to see the name "co-operative" omitted from the nomenclature of that institution.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am afraid there is some amount of misapprehension in the mind of Rai Sahib Jatindra Mohan Sen who sponsored this amendment. Clause 8 seeks to give the Government of the day some power by which they may be able to exempt societies or a class of societies from the operation of any of the provisions of the Act or of the Rules. As has been explained by my friend Khan Bahadur Naziruddin Ahmad, just to give the societies concerned some amount of freedom for the purpose of managing their own affairs in the best way possible, this provision had been put down in the existing Act II of 1912 where section 46 empowers the local Government to exempt any registered society from any of the provisions of this Act and so forth. Now, Sir, as has been explained by some of my friends in reply to the objection raised by Mr. Sen, I would like to say one particular point to remove his apprehension. Take the case of the apex bank of the province, namely, the Bengal Provincial Co-operative Bank. It functions not only to supply the financial needs of the central banks but it is also a banking concern and if it is not able to issue loans to a depositor against his deposit, it cannot draw finance from the public. But then clause 39, as it is there in this Bill, restricts a loan of that nature by a co-operative society to any one else than a member of the co-operative society; but a depositor may not be a member at all. If the co-operative bank has to draw finance from the public, it must have power to grant loans to a depositor against deposit and nothing can be more secure than the deposit which the man has when he asks for a loan. It is just to meet contingencies of this nature that a general power is necessary. Government hope that it will be utilised only to meet an emergency of this nature.

Then, Sir, with regard to the apprehension of my friend Mr. Humayun Kabir, if he be good enough to read sub-clause (2) of clause 8 of the Bill, he will find it laid down that "the power to make rules shall be subject to the condition that no rule will be made to the prejudice of a co-operative society without giving such society an opportunity to represent its case."

Therefore, there cannot be any apprehension in the mind of anybody that any society will be prejudicially affected. On the contrary, it is

just to widen the scope of the functioning of a society that this power is sought. I can very well appreciate the point of view put forward by my friend Mr. Naresh Nath Mookerjee because he and his group are never free from suspicion: they are always suspicious whenever Government ask for any power from the Legislature.

Regard being had to the point of view that he and my friends on my left do entertain, I do not think I can say anything by way of reply to the point of view that he has advanced. For, they are always suffering from that sort of suspicion and apprehension of the present Government even when they have done some really meritorious act for the benefit of the province. Sir, I submit on these grounds that there is no point in the objection raised in the amendment of my friend Mr. Sen. As regards Dr. Mookerji, I find nothing in what he has advanced in support of the amendment.

On these grounds, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that clause 8 of the Bill be omitted.

(The amendment was negatived.)

Mr. ABUL QUASEM: Sir, I beg to move that in paragraph (*a*) of sub-clause (*1*) of clause 8 of the Bill, for the words "class of such society" in lines 1 and 2, the words "class of such societies" be substituted.

Mr. PRESIDENT: Amendment moved: that in paragraph (*a*) of sub-clause (*1*) of clause 8 of the Bill, for the words "class of such society" in lines 1 and 2, the words "class of such societies" be substituted.

Mr. ABUL QUASEM: Sir, with your permission, I also beg to move that in paragraph (*b*) of sub-clause (*1*) of clause 8 of the Bill, for the words "class of society" in line 2, the words "class of such societies" be substituted.

Mr. PRESIDENT: Amendment moved: that in paragraph (*b*) of sub-clause (*1*) of clause 8 of the Bill, for the words "class of society" in line 2, the words "class of such societies" be substituted.

The question before the House is: that in paragraph (*a*) of sub-clause (*1*) of clause 8 of the Bill, and in paragraph (*b*) of sub-clause (*1*) of clause 8 of the Bill, for the words "class of such society," the words "class of such societies" be substituted.

(The amendments were agreed to.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in clause 8 of the Bill, after sub-clause (*1*), the following proviso be added, namely:—

"Provided that the Provincial Government shall exempt any society or class of such societies from application of any of the provisions of this Act or any of the rules made thereunder which are in the opinion of the Registrar first class societies now existing in the province."

Sir, I listened with interest to the speech which was delivered by Khan Bahadur Naziruddin Ahmad when amendment No. 40 was moved. Therein he stated that by this clause it is intended to protect first class societies. Here is a provision which I place before the House and I hope my friend the Khan Bahadur with his usual eloquence will support it.

Mr. PRESIDENT: Amendment moved: that in clause 8 of the Bill, after sub-clause (*1*) the following proviso be added, namely:—

"Provided that the Provincial Government shall exempt any society or class of such society from application of any of the provisions of this Act or any of the rules made thereunder which are in the opinion of the Registrar first class societies now existing in the province."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose this amendment. The explanation that I have had occasion to submit to the House with reference to the other amendment moved by my friend Rai Sahib Jatindra Mohan Sen, I think, ought to satisfy the House that this is unnecessary. Before the House can agree to an amendment of this nature, I hope my friend Mr. Das ought to satisfy the House as to what he means by first class societies. I have explained to the House already the necessity of a provision of this nature and if what he says is what I also meant, then I do not think, Sir, that an amendment of this nature is necessary. I do not think, Sir, I should detain the House any longer with any speech. I oppose the amendment.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I am grateful to my friend Mr. Lalit Chandra Das for the compliment paid to me when he characterised my speeches as eloquent. I have never been guilty of eloquence as he is. I have, in my humble way, attempted in this House to present facts and considerations in a simple and natural way. I have no fascination or capacity for more eloquence. I submit, Sir, that there are very many pitfalls in this proposed amendment. Clause 8 reserves to Government ample power to exempt any society it thinks fit. The Government is controlled by the Legislature and will always

exempt societies which really deserve it. I do not think that the Government will exempt bad societies or indifferent societies or those which are managed on unsound lines.

Now, Sir, as to this proposed proviso, there are many pitfalls. But it is necessary only to mention one or two typical instances. The first thing that strikes me is that my friend wishes that Government "*shall*" exempt some societies. It leaves Government no discretion, and secondly, the exemption is to be confined only to "first class" societies. It is impossible to tell what is a "first class" society and what is not. This is a loose and misleading administrative expression which the Legislature cannot use without defining the same. Khan Bahadur Ataur Rahman with his long experience has shown that this exemption need not be and cannot be confined to any particular class or type of societies. It may be conferred upon a new society; it may be conferred upon a first class society or even upon a second class society. The exemption may depend upon so many factors that it would be impossible to define or specify them. My friend would further confine the exemption to "existing" societies. My friend has no mercy for future societies. In these circumstances, this beneficial power would be so much restricted, there would be so many "if's" and "but's", there would be so many catches here and there, that it is impossible for us to accept the amendment in its present form. We have already accepted the principle of exemption in clause 8. I believe that the power is ample and will be exercised in deserving cases.

In this view, Sir, although agreeing with the object and principle of amendment, I have to oppose the proposed amendment.

Dr. RADHA KUMUD MOOKERJI: Sir, I rise to support the amendment moved by Mr. Lalit Chandra Das. I feel impelled to rise in support of the amendment on account of the remarks made by the last speaker which show that he has not been able to correctly understand the scope of the amendment. The object of the amendment that has been brought forward is simply to make it compulsory upon the Provincial Government that the power of exemption should, in the first instance, be exercised in favour of what are "first class" societies——

Mr. PRESIDENT: Order, order. What is the meaning of the words "first class" societies?

Dr. RADHA KUMUD MOOKERJI: I take the meaning according to law.

Mr. PRESIDENT: Have the words "first class societies" been defined anywhere in the Bill?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: We have given none, Sir.

Mr. PRESIDENT: I hold that this amendment is not in order. The meaning of the words is not definite or clear and effect cannot be given to such an amendment even if it is accepted by the House.

The question before the House is: that clause 8, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 9.

Mr. PRESIDENT: Clause 9 stand part of the Bill.

Mr. SHRISH CHANDRA CHAKRAVERTI: Sir, before I move amendments Nos. 48-51, I beg to point out that there are other amendments in our names No. 55-58. In order to avoid repetition, I would like to move both the amendments together.

Mr. AMULYADHONE ROY: Sir, what will happen to my amendment No. 63?

Mr. PRESIDENT: You will have your chance.

Mr. AMULYADHONE ROY: To move it as a separate amendment?

Mr. PRESIDENT: Yes.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: If I may point out at this stage, Sir, you may be good enough to take up amendments Nos. 48-51, 52, 53, 59-62 and 63 together. They all refer to the appointment of Registrar. If they can be taken up together, I think that will save a lot of time of the House.

Mr. SHRISH CHANDRA CHAKRAVERTI: I may point out here that so far as 59-62 is concerned, it will only be taken up if amendments Nos. 48-51 and 55-58 fail. So, I will only move amendments Nos. 48-51 and 55-58.

Mr. NARESH NATH MOOKERJEE: May I make a submission, Sir? Amendment No. 55-58 relates to what class of persons would be appointed as Registrar not by the Service Commission but by Government. So, if the first amendment fails, it is only then that this amendment can properly come in, because we cannot point out to the Public Service Commission as to what class of persons they should appoint as Registrar. They know their business best.

Mr. PRESIDENT: All right. Then move amendments Nos. 48-51 and 59-62.

Mr. SHRISH CHANDRA CHAKRAVERTI: Sir, I beg to move that in cluase 9 of the Bill, after the word "may" occurring in line 1, the following words be inserted, namely:—

"On the recommendation of the Provincial Public Service Commission."

Sir, the provisions of this Bill have made the position of the Registrar absolute so far as his power is concerned. His ability, honesty and resourcefulness will make and unmake the co-operative societies. So, I submit, Sir, that this appointment must be made with proper caution and specially this appointment should be above all political considerations. As we find that this movement is making a great progress and it has vast prospects in this province, if the appointment of Registrar is not made in accordance with the recommendations made by the different Commissions which have been appointed in respect of this movement, it is bound to become a failure. Sir, I cannot resist the temptation of reading out a relevant portion from the statutory report of the Reserve Bank of India on Agricultural Credit Department, published in 1937:—

"In order to infuse new life into the societies, to introduce the various reforms we have suggested and to secure the growth of the movement on right and sound lines a highly progressive, efficient and well-trained staff is a vital necessity. The Maclagan Committee and the Royal Commission on Agriculture have both laid great stress on the intensive training of the staff in co-operation and rural economics..... Since the Registrar forms the foundation of the whole movement, his training in co-operation, banking and rural economics requires the greatest possible attention. The Maclagan Committee set up the following very high standards for him.

"In order to fulfil his duties he must be continually studying co-operative literature, which is now most extensive; he must make himself acquainted with economic conditions and practices both throughout India and in his own province; he must know the principles and methods of joint stock banking and must examine the system of developing thrift and inculcating co-operation which have been tried in other countries. He is also head of a teaching establishment, and must devise effective means for impressing a real knowledge of co-operation on the bulk of the population..... He must see that there is a sound foundation of Better Business to support the superstructure of Better Farming and Better Living; the more efficient the movement, the more will other departments make use of it to promote their own special activity. The Local Governments should select the

best man available as Registrar. Administrative experience, knowledge of the people and their economic conditions and ability to enlist the co-operation of honorary workers are essential qualifications. Registrar is becoming one of the most important officers under the Local Government and should be recognised as such..... We have given these lengthy quotations because we feel that not every Provincial Government has given these valuable recommendations the attention they deserve. The non-observance of these principles has resulted in hampering the progress of the movement in some of the provinces, and we strongly recommend them to the serious consideration of the various Provincial Governments. We feel that if the movement in the Punjab is in a better condition than in most other provinces, this is to a great extent due to the provision of adequate and well-trained staff as well as the appointment of specially trained officers as Registrars who have made a close study of the co-operative movement in India and abroad."

So, Sir, it is quite apparent from the remarks of the Statutory Commission's Report that Bengal has not made equal strides with that of the Punjab in this movement and there is almost a covert hint,—indeed it has been specially mentioned,—that all the Provincial Governments are not appointing Registrars having the necessary qualifications. In these circumstances, I have proposed that the appointment of the Registrar should be left to the Public Service Commission, mentioning the special qualifications which are necessary for the appointment of Registrar. We understand that the present incumbent of the post does not come up to that standard and hence we have a reasonable apprehension that Government have already failed to select a proper officer for the post of Registrar, and as such this amendment ought to be accepted by this House.

Mr. PRESIDENT: Amendment moved: that in clause 9 of the Bill after the word "may" occurring in line 1, the following words be inserted, namely:—

"on the recommendation of the Provincial Public Service Commission."

Dr. RADHA KUMUD MOOKERJI: On a point of information, Sir. May I know whether the appointment of the Registrar can be made by the Minister without consulting the Public Service Commission?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Yes, all such officers in the superior services are appointed by the Minister; but he has got to go to His Excellency the Governor of the province for his approval.

Dr. RADHA KUMUD MOOKERJI: My question was specific, namely, whether the law gives power to the Minister to make the appointment of the Registrar without referring the matter to the Public Service Commission?

The Hon'ble Mr. MUKUND BEHARY MULLICK: Yes, it does.

Khan Bahadur ATAUR RAHMAN: May I know who appoints the Excise Commissioner and the Inspector-General of Registration?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Government with the approval of His Excellency the Governor.

Khan Bahadur NAZIRUDDIN AHMAD: The appointment of the Chief Secretary?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The same procedure is followed: that also goes to the Governor.

Mr. HUMAYUN KABIR: Sir, I beg to move that in clause 9 of the Bill, after the word "may" occurring in line 1, the following words be inserted, namely:—

"out of a panel of three names recommended by the Provincial Public Service Commission."

Sir, just now we have heard from the Hon'ble Minister concerned that the appointing authority in this case is the Minister, though the name of his nominee is sent up to the Governor for his final approval. I take it that it is not usual for the Governor to interfere with the decision of the Minister in a matter which intimately concerns that Minister's department; and I do not think that the question of the individual judgment or the discretion of the Governor comes in in the case of an appointment like this. Therefore, having regard to what the Hon'ble Minister has just now said, we can take it that the final appointing authority is the Minister concerned, and that the sanction of the Governor is a purely formal matter and would not be refused in the normal circumstances which alone we are expected to consider here. We also take it that the Hon'ble Minister when making the next appointment will not make such a choice as to compel the Governor to interefere in the matter. That is not the apprehension on this side of the House, but, nevertheless, it is necessary to have some control over such appointments and for reasons other than those adduced in connection with another amendment of a similar nature. To-day, we have here a system of party Government and, therefore, the Minister will be a party man. That the provincial administrative head of

such an important department as the Co-operative Department should be free from party politics becomes even more important in such a context. It may be that there are three or four men who are almost equally competent; and it may be that one person is far more competent than the rest. In either case, the final choice should not be left to the Hon'ble Minister. I take it that normally the Ministers would not bring up the cases of those who are obviously and patently incompetent. We must attribute that much sanity to the Ministers but at the same time we must try to guarantee that persons who are found to be incompetent by the Public Service Commission should be excluded. In order that Government may have a fairly wide margin of choice I have suggested a panel of three so that the appointment may go to the person having the highest efficiency. If it is left to the Minister alone, it may be that out of political contingencies the appointment will go to the preson who has got 12 annas efficiency and not 16 annas efficiency. This may cause hardship on the prospective candidates, and that, I think, is a contingency which the Council ought to guard against.

Sir, the Co-operative Department is one of the most important departments of the Provincial Government; it deals not merely with the finances of the urban people, but it also comes into intimate contact with the rural areas. And in the past, officers of this department have sometimes been used as electioneering agents. We must see that that contingency does not arise again. Therefore, it is very necessary that the Registrar, who is even now almost all powerful in this department and who, when this Bill is passed, will virtually be the dictator of this department, should be free from undue control of the Minister. The Minister will have to go to the electorate time after time in order to be returned. I think a great deal of scandal arose in this connection on a previous occasion with regard to the employment of officers of Government departments, and it is quite possible that unless we guard against the possibility such cases may recur.

But that is not the whole reason which has led me to move this amendment. There is also the experience of other departments of Government where we find that sometimes Government have permitted the selection of persons relatively inferior in suppression of the claims of persons of a higher calibre. Even now in the Education Department there are officers who have been given double or treble promotions in spite of the objections of the Public Service Commission. Only recently, the post of Inspector of Schools of the Dacca Division has been filled by a person who has hardly any experience in inspecting work and who has not even been found fit by the Public Service Commission; we have seen, Sir, that able officers who have held charge of Divisional Inspectorships are no longer being given such charge for political considerations. In order to save the

Minister from any charge of desiring to utilise this important department for personal ends instead of contributing to the good of the province that it is desirable in the interests of the Minister himself that he should accept an amendment of the type I have now moved.

Sir, the amendment I have proposed gives a certain amount of discretion to the Minister. It provides that out of three names recommended by the Public Service Commission the Minister can make his choice. Therefore, if this amendment is carried, the final authority in the matter of selection will still be the Minister, the only guarantee being that the Minister will be forced to restrict his choice to the three best men selected by the Provincial Public Service Commission. Sir, the Public Service Commission may be taken to be free from outside influence, though it cannot be entirely free from all influence; still, it may be taken that the Public Service Commission is relatively free from the influence of party politics, the department and the public outside, and if the Commission chooses three men and sends them up for consideration by the Hon'ble Minister, he will have a fairly wide margin of choice. He can choose any of the three men and will, at the same time, be free from that suspicion of favouritism in the matter of appointment on the ground of political considerations to which, however, he will be liable if an amendment of this type is not accepted. I would also ask the honourable members of the Coalition Party to give their consideration to an amendment of this type. Many of them have experience of Government service, and many of them know how things are managed in the Government departments. I submit that in view of their past and present experience and also in their own interest they ought to support an amendment of this type.

Mr. PRESIDENT: Amendment moved: that in clause 9 of the Bill, after the word "may" occurring in line 1, the following be inserted, namely:—

"out of a panel of three names recommended by the Provincial Public Service Commission."

All the three amendments would be considered together.

Dr. RADHA KUMUD MOOKERJI: Sir, I rise to support the amendment moved by Mr. Chakraverti——.

Mr. PRESIDENT: Order, order. Dr. Mukerji desired me to refer him to the rule relating to recruitment and conditions of service under the Provincial Government. I think the relevant section is section 241(*1*)(*b*) which is as follows: "In the case of services of a province, and posts in connection with the affairs of a province, appointments shall be made by the Governor or such person as he may direct."

So, it is the Governor, as advised by the Ministry of the day, who is primarily concerned in the matter of appointments or anybody else to whom the power of the Governor may be delegated.

Dr. RADHA KUMUD MOOKERJI: I rise to support the amendment moved by my friend Mr. Chakraverti and I suppose there is practically no difference between his amendment and that moved by Mr. Humayun Kabir. At the outset, I would like to say that I am somewhat surprised—or rather not surprised—at the attitude of thte Hon'ble Minister for Co-operation towards this amendment. The attitude that he has taken towards this amendment is that he is very anxious to assert his position, that he means to be absolutely independent of the Public Service Commission or any other extraneous agency in the exercise of his supreme power to appoint anybody whom he chooses as Registrar. We who represent the popular point of view have also to urge upon this House certain very weighty and grave considerations. These considerations arise out of one very simple and primary fact that is brought out in an emphatic, and, I should say, in an ugly manner which may be noticed in this strange Bill. It may be noticed that the main purpose of this Bill is to bring into being a new type of dictator who will be armed with all possible power to run a department called the Department of Co-operation, which will not be broad based upon the people's will and which will be managed entirely in a spirit which is quite contrary to what is meant by co-operation.

I find, Sir, that the Hon'ble Minister who is responsible for this strange piece of legislation has devoted as many as 60 clauses of this Bill out of a total number of 139 clauses: that is, nearly a half of the total number of provisions of this Bill simply to the prosecution of one purpose, namely, how to produce a Registrar who would be entirely above all control and who would be free to act as a supreme dictator of the co-operative movement without any possible interference whatsoever. Probably it is a kind of super-Hitler that is sought to be created here. Now, since this Registrar is going to be the centre of the picture and a hero of the whole show—or shall I say the villain of the piece—since he is going to be armed with this dictatorial power, I should think that the simplest precaution like that contemplated in this amendment might not be objected to by the sponsor of this measure. Since the Bill really will try the Registrar in a very new setting by giving him all possible power, I think it is the Government that should take the primary caution of seeing that the appointment that is made to this very important post is properly made. So I say that because you contemplate arming this Registrar with new power therefore you should proceed very, very cautiously so that the man whom you are going to dress with such sweeping powers that man may be entirely

aboveboard and may be really the fittest person available in the province. If you give us that much, all the opposition to this Bill may be removed. Therefore, I say even at the outset why do you not try to gain the confidence of the House and the public by showing all your cards on the table and by freeing yourself of any suspicion that some kind of nepotism or party politics might have a scope in the matter so far as the appointment of this important officer is concerned?

Now, my next argument is, after all we are not really depriving the Minister of any of his proper powers. When we say out of a panel of three names, as Mr. Kabir wants to propose by his amendment, we are giving the Hon'ble Minister some latitude or some range of choice within which he can exercise his discretion. When practically the major part of the administration is really handed over to the Public Service Commission so far as appointments are concerned, I do not see why the Minister should grudge this power being given to the Public Service Commission, which after all is above all party politics and is not swayed by any consideration except the consideration relating to merit and fitness for recruitment to the public offices. I therefore think that this amendment is very innocent and considering the powers that are proposed to be given to the Registrar, we should disarm public opposition and criticism if the Minister is induced to accept this amendment. If he does not however do it, if on account of certain reasons which he may not I think quite explain satisfactorily to this House, if he does not do it, the position is this, that he really creates a sort of prejudice at the outset against the working of this department under the new conditions. Why is it that he fights shy of the Public Service Commission? I want to ask him this plain question, on what justifiable ground he wants to fight shy of the Public Service Commission and wants to avoid that body as much as possible. I should think that this is symptomatic of a grave disease in the Government itself. We have accounts of the way in which the Public Service Commission has not been fairly treated by this Government or some other Provincial Governments. I do not mean to say that the Bengal Government is alone guilty in this respect, but I think that under the new constitution there is going on in an underhand manner a sort of estrangement between the Public Service Commission and the executed Government of the day. The executive Government feels that it cannot exercise freely its powers as it pleases. Probably it feels that the Public Service Commission is a very important deduction from the kind of autocracy which it has in view. On the contrary, the Public Service Commission itself is a creation of the genuine democratic ideal. I therefore think that he cannot produce any argument by which he can show why he wants to work independently of the Public Service Commission. As I have said,

it is really symptomatic of a grave disease, and what is that? That disease is that there is growing up a new kind of despotism in the Government. The Government does not like at times to be fettered by the Legislature also, and mind you, my friends of the Coalition Group, you will also feel the effect of this new despotism very soon. Because the Government may try also to gag the Legislature, and it would think that the Legislature is not very convenient for its purposes, and it might curtail the powers of the Legislature in many ways so that it may have a kind of despotism growing up, and it is very anxious to see that this departmental despotism or bureaucratic tyranny may have an unchecked career as much as possible. That is to say, this Government is infected by the spirit of a very doubtful type of despotism and bureaucratic tyranny. It is only from this point of view that one can understand why a Minister should try to fight shy of the Public Service Commission and should try to justify his position that the Public Service Commission must not count so far as the appointment of the Registrar of Co-operative Societies is concerned. We would not have grudged him the power that he covets, but because under this new law he is creating for the country a new creature, a despot of a new type, who is bound to undermine the foundations upon which a genuine and popular movement can be built up from our point of view, because the movement is being threatened by a piece of legislation which will blight in our opinion the prospects of its growth, because we apprehend a serious consequence as a result of the very extraordinary powers with which the Registrar is going to be armed, because of all these apprehensions, I say that it is better that the Minister should make this appointment at least in a manner absolutely aboveboard so that when we have got a statutory body so handy for the purpose of Government, when we have the Public Service Commission in our midst, for so many appointments, we should entrust this matter to the Commission to deal with it as it pleases? The Hon'ble Minister is twitting us with a spirit of suspicion against the Government. We are not at all committed to a spirit of suspicion on principle. We are quite prepared to show the fullest possible confidence in a well-administered department, but it is the Minister that is really creating a spirit of suspicion at the outset, and therefore I say that this amendment is very reasonable, and I do not think there can be urged any administrative consideration except the consideration which seeks bureaucratic tyranny and departmental despotism. Except those considerations there is no consideration which can weigh with us in thinking that this amendment is not called for.

I say, Sir, therefore, that it is one of the most important amendments by which the Bill itself will be rendered more useful than it would be otherwise.

Mr. KADER BAKSH: Sir, I oppose both the amendments of my friends Mr. Shrish Chandra Chakraverti and Mr. Humayun Kabir on the following grounds. Sir, before I give my reasons for opposing the motions, I would like to say that a man who is himself suspicious always suspects everybody—a man who is suspicious always takes a bush for a bear. He will never find Helen's beauty in the brow of Egypt. This seems to be the attitude of learned Dr. Mookerji. That is why even before the Bill is introduced or is given a chance, he is suspecting that the Minister will be utilising the appointment of the Registrar for his own benefit, or as has been said by my friend Mr. Kabir for the purpose of electioneering campaign for the future. Now, Sir, after an appointment has been made on the recommendation of the Public Service Commission, if the gentleman who has been appointed turns round and becomes a tool in the hands of the Minister, how can that be avoided? It is well known that after his appointment he will be under the direct control of the Minister in charge of the department; the Minister may bring all the influence to bear upon him and he can be made to do anything he likes him to do.

Sir, there are some people who will always attribute sinister motives to the Minister even if he wants to do something good for the people of the country. Sir, the Government and not the Public Service Commission is anxious to ameliorate the conditions of the people by bringing into operation a legislation of this kind to effect an improvement upon the present co-operative system. The Public Service Commission has nothing to do with this co-operative movement. It does not care whether the co-operative movement succeeds or fails. In these circumstances, who will be more anxious to see that the most efficient and competent man is recruited for this important post? I maintain, Sir, that the Minister in charge who has been entrusted with this department will be more anxious to get a thoroughly competent and efficient man to be the Registrar than the Public Service Commission. As I have said just now, the Public Service Commission has got nothing to do with the success of the movement. My friend, Mr. Kabir, has referred to qualifications varying between 18, 19 and 20 annas. It is not the 20-annas man who is always most efficient to run a department. Therefore, the Minister, who is conversant with the department, who knows the "ins and outs" of the department, who has been moving round to promote the welfare of the people and also of the department, is the most competent man, according to my opinion, to get a man most suitable for the department and not the Public Service Commission. There are other departments in which the assistance of the Public Service Commission is not called for. Dr. Mookerji has said that the Bill has been introduced solely with the purpose of giving the power of dictatorship to the Registrar. Why does not the

learned Dr. Mookerji oppose the Bill as a whole? Why is he quarrelling with this particular clause of the Bill relating to the appointment of the Registrar? If the Bill as a whole is a bad Bill, if it is aimed only at giving extraordinary power, as he has said "super-Hitlerism," to the Registrar, he should have objected to the very introduction of the Bill. Without doing so, and after giving the go-bye to the other provisions of the Bill, he is now only employing his eloquence in supporting the amendments of Mr. Kabir and Mr. Chakraverti. I submit, Sir, that this is nothing but seizing an opportunity of attributing some motive to the Minister.

Now, Sir, the Minister and the members of the Legislature are more anxious for the welfare of co-operative movement and not the Public Service Commission. It may be good in its own way. So far as departmental appointments are concerned, I think the heads of departments are the best judges in the matter of appointing efficient men to such posts.

Then, Sir, with regard to the proposed panel of three names to be recommended by the Provincial Public Service Commission, I must admit that I have not been able to follow the argument of my friend, Mr. Humayun Kabir. If there is to be any recommendation from the Public Service Commission, let there be only one recommendation; but if there is to be a panel of three men, the Minister will be at liberty to choose his own man—a man in whom he may be interested or who may have some control over the Minister. If Mr. Kabir had suggested the recommendation of only one person by the Commission, we could have understood it.

With these words, Sir, I oppose both the amendments of Mr. Chakraverti and Mr. Humayun Kabir.

Khan Bahadur NAZIRUDDIN AHMAD: Mr. President, Sir, I have my doubts as to the admissibility of these two amendments. I believe a point of order might be raised——

Dr. RADHA KUMUD MOOKERJI: Are you raising a point of order?

Khan Bahadur NAZIRUDDIN AHMAD: I submit that a point of order need not be "raised" in any particular manner. One need only refer to the admissibility of an amendment. That is, I submit "raising" a point of order. The function of the Provincial Public Service Commission is laid down in section 266 of the Government of India Act, 1935. Under sub-section (*3*) of that section the Governor in his discretion may make regulations relating to appointments, promotions, and similar other things. The matter there lies with the

Governor exercising his own discretion. He has, I believe, made the necessary regulations. Then, the Legislature also has some powers which are to be found in section 267 of the Act which is subject to the power of the Governor. In clause (*a*) to the proviso to section 267, it is laid down that "no Bill or amendment for that purpose shall be introduced without the previous sanction of the Governor in his discretion." But I think previous sanction of the Governor has not been taken for these two amendments. In a matter where we want to legislate for the intervention of the Public Service Commission, it requires the previous sanction of the Governor. The section is quite clear. The reason is also quite obvious. Under section 266(*3*), the matter is specially placed in the hands of the Governor exercising his discretion. The Legislature can interfere with this discretion and take that discretion out of the hands of the Governor by legislation introduced only with the Governor's previous sanction. Under these circumstances, I believe, these two amendments are out of order under section 267.

Mr. HUMAYUN KABIR: May I make a submission in this connection, Sir?

Mr. PRESIDENT: Yes, Mr. Kabir.

Mr. HUMAYUN KABIR: I think the point of order has been raised by my honourable friend without reading the whole of the sub-section to which he has been pleased to refer. In section 266(*3*) it is provided that the Governor in his discretion as respects other services and posts in connection with the affairs of a province, may make regulations specifying the matters on which either generally or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted. So, unless the Governor in his discretion has already made rules by which these posts shall not be referred to the Public Service Commission, the point raised by my friend does not arise at all. Under section 266(*3*) (*b*), the Public Service Commission shall be consulted on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers. Therefore, we must first be satisfied that the Governor has made rules in this connection excluding the appointment of the Registrar from the jurisdiction of the Public Service Commission, but if he has not done that, I submit that you will hold that these amendments are in order.

Mr. PRESIDENT: Section 241 of the Government of India Act makes the general provision that appointments shall be made by the Governor or by such person to whom the Governor delegates his power.

The Governor in such cases acts on the advice of his Ministers. But section 266(3) reads as follows:—"The Governor in his discretion as respects other services and posts in connection with the affairs of a province may make regulations specifying the matters on which either generally or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted." So, the Governor in his discretion has the right to make regulations taking out any appointment or post out of the jurisdiction of the Public Service Commission. At present we do not know anything as to whether any such regulations will be made or not. In clause 9 of the Bill power is given to the "Provincial Governor" to appoint the Registrar or persons to assist him. I, therefore, hold that the point of order of Khan Bahadur Naziruddin Ahmad is not well taken.

Khan Bahadur NAZIRUDDIN AHMAD: Now, coming to the merits of the two amendments, I think the primary function of the Public Service Commission is to confine their attention to examinations for the purpose of recruitment. Even with regard to the superior services they confine themselves to examination. With regard to higher departmental appointments, specially the heads of departments, they have to be made from the existing services. As a matter of fact, such appointments are made by promotion from the services, and as a matter of practice such appointments are never referred to the Public Service Commission. The reason seems to me to be obvious. The Public Service Commission examines candidates with a view to testing their intellectual attainments and they generally confine such examinations to the examinees' academic qualifications. Such an examination can never be a sure test to determine the administrative ability of a person to run a department. An officer must acquire a considerable amount of experience to qualify himself for the headship of a department and it may be that a particular incumbent may have sufficient experience to run his department, but he may not have such high academic qualifications as would satisfy an examination test by the Public Service Commission——

Dr. RADHA KUMUD MOOKERJI: On a point of order, Sir. Is the honourable member entitled to cast a slur on the Public Service Commission?

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I am at a loss to see how I have cast a slur on the Public Service Commission.

Dr. RADHA KUMUD MOOKERJI: You have said that the Public Service Commission is confining itself to academic qualifications only.

Khan Bahadur NAZIRUDDIN AHMAD: I fail to understand how that amounts to any reflection on the Public Service Commission. Sir, I have the highest respect for the very high academic qualifications of Dr. Mookerji, but the difficulty about academic qualifications is that they are not invariably necessary to make good heads of departments. I submit that high academic attainments are no doubt a great initial qualification, but we have seen successful heads of departments who have had practically no academic qualifications. Sir, I do not want to belittle the high academic attainments of my friends over there, but I must stress the point that academic qualification is not the only criterion to make one a good head of a department. A head of a department ought to know, in the first instance, how to manage his department and to deal with his subordinates. He must be a person having varied experience of men and things; he must know how to manage affairs and how to deal with men. No system of examination can find out and measure such qualifications, although it can easily find out the academic qualifications of a candidate. A person aspiring to be a head of a department ought to have capacity for work, power of quick grasp and power of quick decisions. He must have at his command rules and precedents and ability to apply them to the facts of each case. Heads of departments are never selected by the Public Service Commission. In selecting the Chief Secretary to the Government of Bengal or the Commissioner of Police or a Commissioner of a Division or a District Judge or a Magistrate, the Government never goes to the Public Service Commission. Indeed, it would be introducing a novel principle and a novel procedure if we take the help of the Public Service Commission in selecting heads of departments. That is never done. In these circumstances, I believe, such appointments should be made by the executive head of the department concerned—I mean, the Minister for the time being or rather the entire ministry, in consultation with the Governor.

It has been mentioned that the head of a certain department was once engaged for the purpose of canvassing the election of a certain Minister in the past. It received scathing comments by the Election Tribunal and much notoriety in the Press. I submit that such a thing was possible in a system of administration under the old bureaucratic Government, but if a Minister tries to imitate it now, there would be a countrywide agitation in the newspapers and on public platforms and there would be censure motions and adjournment motions in both the Houses of the Legislature. Therefore, I believe that under the modern democratic system such a thing would be out of date and in future I am sure it will be a thing of the past.

Then, Sir, there is no guarantee that a person selected by the Public Service Commission will not be amenable to the personal influence of his Minister. The subserviency of a man will not also be dependent

on his selection by the Hon'ble Minister. It depends on the individuality of the officer concerned and also on the individuality of the Hon'ble Minister under whom he is destined to serve. But in view of the strong public opinion in the country and also of the strong public spirit which is daily growing among the people, it will be increasingly difficult in future for an Hon'ble Minister to utilise the services of his heads of departments in his election or any other personal work. Moreover, such possible subserviency in a candidate, I submit, cannot be found out by any system of examination by the Public Service Commission. Therefore, there is no point in the argument that the nominee of a Minister will have a tendency to become subservient to him.

Sir, a head of an important department is generally a person who has put in service for many years and has valuable experience of men and affairs and office methods and subjects. These are matters which no examination can properly assess. His achievements, his experience, his capabilities are things which can only be judged by the executive head of his department—I mean, the Minister in charge. A tradition and a reputation gradually grow about an efficient officer. Personal attainments and abilities are handed down from department to department and from one department to another. In fact, every officer who is really competent is quickly known. His ability is to be found in numerous files which he has dealt with, in the many reforms which he has introduced and in a thousand other places. His name is handed down from generation to generation as it were and everybody knows him. In these circumstances, I submit that it is not necessary to subject him to the narrow test of an examination by the Public Service Commission. Experience and the finer capacities cannot be measured through an examination by an independent body unconnected with his work and his departments. Sir, we have got in our midst here two retired officers. One is Khan Bahadur Saiyed Muazzamuddin Hosain, and if he was entrusted with a responsible duty, I think we can always choose him. We need not send him to the Public Service Commission. Possibly some of my eloquent friends opposite would pass the examination of the Public Service Commission and my friend Khan Bahadur Muazzamuddin Hosain with a quiet disposition, who does not talk much and is not also very self-assertive, will perhaps fail. But I submit, Sir, in point of moral and intellectual qualities, in abilities to handle any department and its complex problems he would easily satisfy every practical test. In matters of high appointments such as the Registrar of Co-operative Societies, we need not and cannot go to the Public Service Commission. Their activities should be invoked only in the case of new appointments, in the case of new recruits. (Mr. SHRISH CHANDRA CHAKRAVERTI: Are you going to appoint the Khan Bahadur?) If I had a hand in the matter, I would have appointed him to much bigger administrative

posts. He deserves a far better appointment. (Mr. SHRISH CHANDRA CHAKRAVERTI: Minister?) Sir, we are digressing. Examination is unnecessary and uncalled for in the case of an able and trained official.

With these few words, Sir, I oppose the amendment. Of course, we on this side of the House quite appreciate the motive behind these two amendments, but we think we should be guided more by experience than by high motives. In politics motive may be a great thing, but in administration experience is a greater thing, and we want real administrative efficiency and practical experience and not mere academic qualifications irrespective of their suitability to run high administrative departments.

Mr. NARESH NATH MOOKERJEE: Sir, I had always thought that Khan Bahadur Naziruddin Ahmad was the spokesman for the Government, but I did not know that the Hon'ble Minister had delegated him the power of making appointments also. Sir, it is strange to find that our colleague Khan Bahadur Naziruddin Ahmad should have spoken with some degree of authority as to whom Government proposes to appoint in future. He has said that the Public Service Commission are practically incompetent to make an appointment of this nature. (Khan Bahadur NAZIRUDDIN AHMAD: I never said that.) From his speech it amounts to that. We cannot understand why Government should fight shy of accepting this amendment because it comes from the Opposition. We as well as Government are anxious that the co-operative movement in Bengal should be put on its legs again. Sir, I think with that object in view this Bill has been brought in. As has been pointed before, the Registrar is now being vested with practically dictatorial powers to govern the co-operative societies and, as a matter of fact, I think in order to save the co-operative societies from the devil we are casting them into the deep sea. Here, we are appointing a Registrar and are giving full powers to Government to make that appointment. Government may appoint merely on party consideration; they may not take any qualification into account. As a matter of fact, Sir, the spokesmen of Government have refused to admit even that the Public Service Commission is competent to make this appointment. I do not see why Government should really go to this extent to oppose a good amendment of this nature. If the *bonâ fides* of Government are clear, if they intend to put the co-operative movement on a better footing we fail to understand why they should not agree to the Public Service Commission making this appointment? It is a statutory body and everyone has confidence in it, although sometimes it does not make the right type of appointments, but that is perhaps due to other reasons. We have also heard that pressure from Government is so great that their judgment is fettered. I think all my colleagues are really in sympathy

with me at heart, although because we are sitting on opposite benches they delight in opposing our amendments. I have no doubt that they will be earning the confidence of everyone in this province if they agree to an amendment of this kind which will put this appointment above-board and secure it for the right person. After all, Sir, when this Act comes into force, the Registrar will be the only person to guide Government as to what course they should take: he will be the only person on whom the Government will have to depend for advice and guidance. I do not see any real reason for rejecting our amendments and therefore feel that Government should in all fairness give fullest consideration to this amendment and accept it in principle.

Mr. J. B. ROSS: Mr. President, Sir, we in this Party consider that there is a good deal of force in the arguments which have been advanced by the movers and supporters of this amendment, and we consider that the amendment should receive the very careful consideration of Government. It is my personal opinion that under the Government of India Act the Minister has no option whatever in this matter. Section 266, which has just been referred to by my honourable friend Khan Bahadur Naziruddin Ahmad, states that the Governor in his discretion may make regulations specifying the matters on which either generally or in any particular class of case or in any particular circumstances it shall not be necessary for a Public Service Commission to be consulted, but subject to regulations so made and to the provisions of the next succeeding sub-section, the Provincial Commission *shall* be consulted. It is mandatory, Sir, on all matters relating to methods of recruitment to civil services and for civil posts, and on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers.

It seems to me, therefore, Sir, that the Minister, unless the Governor in his discretion has regulated that in reference to this post the Public Service Commission shall not be consulted, must consult the Public Service Commission, and I make that submission to you, Sir.

Mr. NUR AHMED: Mr. President, Sir, I rise to oppose both the amendments. From the speeches delivered by the honourable movers of both the amendments, I gather that their motive is very high and noble. They want that the co-operative movement which is the nation-building movement should prosper in Bengal, so that there may be better living in Bengal, and there may not be any failure in future. I quite appreciate that high and noble motive. But what afterwards has fallen from the mouths of some of the honourable members of the

Opposition has made me suspicious about that noble motive. In the course of their speeches it has been found that there is a lurking suspicion in their minds regarding the future incumbent of this post, because in the past something has happened regarding some incumbents. From what I gather I think that is the principle motive which has induced them to come forward with this amendment.

Sir, in the course of the speeches references have been made to the Punjab, that the co-operative movement in the Punjab has succeeded whereas it has failed in Bengal. It has been stated in the House that by this Bill drastic powers have been taken by Government and have been given to the Registrar, and since the Registrar would exercise so much power, on him will practically depend the work of the most important department, it is considered desirable that he should be a most competent, most efficient and impartial man. There are no two opinions about that. But if we take a review of the Acts which are now working in other provinces, what do we find? With all respect I would request our friends who have moved these amendments to go through the Punjab Co-operative Societies Act, the Madras Co-operative Societies Act, the Bihar and Orissa Co-operative Societies Act, the Central Provinces Co-operative Societies Act and other similar Acts. What do we find there? We find from those Acts that some years ago similar powers, more drastic powers, were given to the Registrar. As a result of that the Punjab co-operative movement has prospered and in Madras and other provinces the Acts are working well. But what was the condition in Bengal? In the old Act of 1902, the Registrar was only given this power, namely, if a society was not working properly and was mismanaging, he could make an enquiry and after the enquiry could order liquidation of that society. That is the power which is now exercised. But I find that Madras passed a similar Act in 1932, Bihar and Orissa in 1935, Central Provinces in 1937, and as a result of that the co-operative movement has not deteriorated and there has been no cause for suspicion as in the case of Bengal.

Mr. Ross has referred to section 266 of the Government of India Act. There, the Governor has been given the power that if he wishes he can consult the Public Service Commission. From that point of view, these amendments are not necessary.

It has been said that the Registrar appointed under the Bill will be a despot and he will exercise all powers and the Minister will appoint a party man. On that point, I beg to submit with all respect that it is the majority party which governs in a democratic country and the Registrar being a servant of the Crown must carry out the policy laid down by that Government. I fail to understand how that will be a crime if the party which is commanding a majority asks its servant to carry out a particular policy. To-day one party is in power, to-morrow

the Congress may be in power. I ask my friends to consider what will happen then? Do they want this sort of amendment? I am surprised to find that members of that great organisation calling itself the Congress follow one principle in one place and another in another place. When this very question was raised in connection with the powers of appointing the Chief Executive Officer of the Calcutta Corporation, when the Calcutta Municipal Bill was placed before this Legislature, there was a great agitation as to why the Chief Executive Officer should be appointed on the recommendation of the Public Service Commission. But to-day I find some of the members of this Council who opposed that proposal are supporting this amendment.

With these few words, I support the provision contained in the Bill-clause and oppose the amendments.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, it is my painful duty to oppose both the amendments. I am not at all surprised at the observation made by my honourable friend Dr. Radha Kumud Mookerji who cast all sorts of aspersions against the activities of the Government. He is not at all free from suspicion or apprehension as to the activities of the Government of the day and therefore he cannot see anything good in them. Indeed, from that point of view, he suggests that if in the matter of appointments of this nature the Public Service Commission is consulted, then perhaps those appointments will be free from all sorts of misgivings from which my honourable friend has been suffering.

As regards qualifications, I am entirely at one with what Mr. Chakraverti has said, that is to say, that he must be an experienced officer: he must have studied co-operative principles: he must have ideas of thrift, and so on and so forth—the qualifications that the Registrar of Co-operative Societies should have, as observed by the Agricultural Credit Department of the Reserve Bank. Now, Sir, what that has got to do with the Public Service Commission I have been at a loss to understand. If it were an appointment of a direct character, I could have understood the force of the amendments which have been moved and very seriously moved, on the floor of this House. But it is not going to be, and cannot be, an appointment directly to be made by Government and, therefore, I do not see as to what merit there is in the suggestion made that the Public Service Commission will be able to secure for the Government an officer of the type who will be able to run the Co-operative Department properly. Sir, you were good enough to point out to the House on a reference to the Government of India Act that all such appointments are to be made by the Governor or by one to whom he would delegate this power. It was also quoted by two of my honourable friends, Khan Bahadur Naziruddin Ahmad and Mr. Ross, that under sections 266 and 267 of the Government of

India Act if an appointment is made, Government have no other option than to refer the matter to the Public Service Commission. It is also stated in section 266(*3*) of the Government of India Act that the Governor may in his discretion frame regulation by which he may take any of the appointments out of the purview of the Public Service Commission. This is a document for official use. But for the information of the House I can say that with the formation of the new Government, regulations and rules were framed by the Governor in accordance with which this and many other appointments were taken out of the purview of the Public Service Commission——

Mr. J. B. ROSS: On a point of order, Sir. If that is the case, then these amendments are out of order.

Mr. PRESIDENT: I have already stated that under section 266(*3*) of the Government of India Act, 1935, the Governor in his discretion has the power to restrict the jurisdiction of the Public Service Commission. But the Chair did not know whether the Governor has exercised any right in his discretion withdrawing the appointment of the Registrar from the Public Service Commission. As such, the Chair held that if the Act provided for consultation with the Public Service Commission, the Governor will consider seriously whether he should exercise his discretion. I could not anticipate that the Governor had exercised his discretion.

Mr. A. F. STARK: On a point of order, Sir. Should the rules excluding certain appointments from the Public Service Commission be made known at this stage?

Mr. PRESIDENT: The point now being considered is: how the appointment of the Registrar should be made in future. Under the proposed legislation, in future quite a different sort of officer may be appointed as Registrar. But before this Bill is passed, Government could not be expected to make any decision, in anticipation of a Bill of this nature.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Apart from that, Sir, I submit that the question should be discussed on its merits——

Dr. RADHA KUMUD MOOKERJI: On a point of information, Sir. Is the Hon'ble Minister withdrawing his remark that the appointment of Registrar is kept beyond the purview of the Public Service Commission and is kept in the discretion of the Governor?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: No, I am not; because it is a fact and I cannot withdraw the statement referred to.

Mr. AMULYADHONE ROY: With regard to the future Registrar, what would be the position?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: That we shall see. So long as the regulations are there, I believe everybody is bound by them. So far as the amendments are concerned, I think I can dispose of them if I am able to satisfy the House that there is no substance in either of them. My friend, Mr. Humayun Kabir, says that under the present system of party Government it may be difficult for the ministry to have an officer free from all political considerations. This has also been hinted at by another honourable friend of mine; I believe it was Mr. Naresh Nath Mookerjee. But both Mr. Kabir and Mr. Mookerjee forget that although a Minister may not be free from politics, His Majesty's services are entirely free from it. Whatever policy is enunciated here in the Legislature is given effect to by His Majesty's services through the agency of the Ministers. Therefore, Sir, the apprehension of my friends that the Registrar while acting as the head of the Co-operative Department will also be guided by party or political considerations is absolutely ill-founded. I can assure the House that at least in this province the time has not come when my friends can have an apprehension of this nature. It can be said with any amount of certainty that His Majesty's services in this province have never involved themselves in politics, and as a Minister I would be the last person to see such contingency arising in this province. It is no doubt true that under the provisions of this Bill the Registrar is going to have some amount of power, but, when the relevant clauses come up for consideration before the House, I shall be able to satisfy the honourable members that each and every one of them is necessary. For the proper functioning of the societies you have got to give some power to an officer whom you make responsible; and unless and until he is able to exercise some such power, you cannot make him responsible for it. I submit that in the case of a highly placed official, position and duty, power and responsibility are correlated terms and that one cannot exist without the other. Therefore, it is necessary that some officers of Government should have that power, but I am not going into that question at the moment. I am only making this submission in view of the points raised by some of my honourable friends to my left.

Sir, it has been argued that if this power is given, the officers will be carried away by despotic tendency. But so far as that is concerned, I do not know how that question does arise. Let me analyse the suggestion that has been made that the Public Service Commission will be

able to recommend the very best officers for our purposes. I could have understood the force of this argument, had it been the case of an appointment to be directly made. But if it were not so, and I submit that it is not so, I do not know how the Public Service Commission can give us any assistance whatsoever. It is certainly the Minister in charge of the department concerned who in the interest of his own department is competent to find out from amongst Government officials the particular person who could be said to be the best fitted for appointment as Registrar in charge of the Co-operative Department. If it is said that the records of some of the officers should be placed before the Public Service Commission before final selection, I submit that even in that case you have got to depend on Government for a preliminary choice. Therefore, there is no force in the argument advanced that the Public Service Commission should be the determining authority to give us the very best officer for this purpose.

Now, Sir, we are no less anxious than the honourable friends who have taken part in this debate to try and find out the very best officer in the service of Government who will be able to bear the responsibility of this difficult office. For this purpose we have to fall back upon the general services of Government and to ask the Home Department to make a preliminary choice for us either from amongst the members of the Indian Civil Service or of the Bengal Civil Service. We do not know at present what is going to be the case in future, but I can assure the House that in making a selection for this particular appointment Government will be no less anxious than any of my honourable friends opposite, who have to-day used a language which perhaps they should not have used, to see that they get the best officer to undertake the great responsibility of the office of Registrar.

So far as the specific suggestion contained in the amendment of my friend Mr. Humayun Kabir is concerned, I submit that it also stands on the same footing with the other. He has suggested a panel of three names to be recommended by the Public Service Commission. It does not matter whether the Commission recommends three or five persons. I submit, as I have already done, that the Government of the day is the best authority to find out who that officer should be, and not the Public Service Commission.

Another apprehension which has also been expressed on the floor of the House is that if the Registrar acts in an arbitrary manner, what remedy has been provided against that. To that my answer is that although the Legislature cannot get hold of the officer and take him to task, they can certainly get hold of the Minister concerned who is responsible to the Legislature and through the Legislature to the country at large for the proper functioning of the department placed in his charge. Sir, when the Minister concerned can be got hold of

and taken to task, I do not see any reason why the honourable members apprehend that the power given to a particular officer will be misused and that there will be no remedy against that.

Two of my honourable friends, Dr. Radha Kumud Mookerji and Mr. Naresh Nath Mookerjee, have enquired as to why I should fight shy of the Public Service Commission. To that I have already answered that the Public Service Commission can be of no assistance whatever in the matter of an appointment of this nature. I have also observed that had the appointment been made directly from outside, the administrative departments of Government, the Public Service Commission might have been consulted, but when it is going to be a selection from amongst officers in the service of Government, I do not think any useful purpose would be served by consulting the Commission.

On these grounds, Sir, I oppose both the amendments.

Mr. PRESIDENT: The question before the House is: that in clause 9 of the Bill, after the word "may" occurring in line 1, the following be inserted, namely:—

"out of a panel of three names recommended by the Provincial Public Service Commission."

A division being demanded, the House divided with the following result:—

AYES—14.

Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Mookerji, Dr. Radha Kumud.
Pal Chaudhuri, Mr. Ranajit.
Ray, Rai Sahib Jogendra Nath.
Roy, Mr. Amulyadhone.
Roy Chowdhury, Mr. Birendra Kishore.
Sanyal, Mr. Sachindra Narayan.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Raja Bahadur Bhupendra Narayan.

NOES—26.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Aziz, Khan Sahib Abdul.
Baksh, Mr. Kader.
Barua, Mr. Dhirendra Lal.
Choudhury, Mr. Moazzemali.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqul Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Jan, Alhaj Khan Bahadur Shaikh Muhammad.
Khan, Khan Bahadur Muhammad Asaf.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, The Hon'ble Sir Bijoy Prasad.

Mr. PRESIDENT: Order, order. The House has divided. Yes—14; Noes—26. The amendment is, therefore, negatived.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the consideration of the Bengal Co-operative Societies Bill will continue to-morrow.

Mr. PRESIDENT: The House stands adjourned till 2-15 p.m to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 29th August, 1940.

Members absent.

The following members were absent from the meeting held on the 28th August, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.

(2) Mr. Bankim Chandra Dutt.

(3) Mr. Narendra Chandra Datta.

(4) Mr. Kamini Kumar Dutta.

(5) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(6) Mr. Mohamed Hossain.

(7) Khan Bahadur Syed Muhammad Ghaziul Huq.

(8) Khan Bahadur M. Abdul Karim.

(9) Maulana Muhammad Akram Khan.

(10) Mr. W. B. G. Laidlaw.

(11) Mr. Amulya Dhone Roy.

B. G. Press—1940-41—7579A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 29th August, 1940, at 2-15 p.m. being the nineteenth day of the Second Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Overbridge at the Chaumuhani Railway Station.

86. Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Will the Hon'ble Minister in charge of the Communication and Works Department be pleased to state—

(a) whether he is aware that Begumganj-Daganbhuya District Board Road in the district of Noakhali runs across the Chaumuhani (Assam-Bengal Railway) Railway Station platform and that hundreds of people and all sorts of vehicles have to be stopped for more than half an hour at a time for want of an overbridge; and

(b) what step, if any, the Government propose to take to remove this grievance?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Shrischandra Nandy, of Cossimbazar): (a) The crossing at Chaumuhani is not blocked for a longer time than is necessary for the passing of trains.

(b) I am informed that before the outbreak of war the question of the provision of an overbridge at Chaumuhani was under the consideration of the Railway Administration, but nothing can be done in that connection till after the war.

The Bengal Co-operative Societies Bill, 1940.

Mr. PRESIDENT: The House will now resume further discussion of the Bengal Co-operative Societies Bill, 1940.

The question before the House is: that in clause 9 of the Bill, after the word "may" occurring in line 1, the following words be inserted, namely:—

"on the recommendation of the Provincial Public Service Commission".

(The amendment was negatived.)

Mr. BIRENDRA KISHORE ROY CHOWDHURY: I beg to move that in clause 9 of the Bill, after the words "to assist him" occurring in line 3, the following be added, namely:—

"and may appoint for three years at a time an Advisory Committee of experts to advise the Registrar or any person appointed to assist him in matters specified in other sections of the Act".

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, before the honourable member speaks, may I submit one thing? As this amendment is concerned with the appointment of the Advisory Committee, may I suggest that it be taken up along with amendments 64-67 and others which are also on the same subject?

Mr. PRESIDENT: Yes, I think that will be better. Mr. Roy Chowdhury, you need not speak on your amendment now: you may do so when the other amendments on the Advisory Committee are also moved.

Mr. PRESIDENT: Amendment moved: that in clause 9 of the Bill, after the words "to assist him" occurring in line 3, the following be added, namely:—

"and may appoint for three years at a time an Advisory Committee of experts to advise the Registrar or any person appointed to assist him in matters specified in other sections of the Act".

Mr. SHRISH CHANDRA CHAKRAVERTI: I beg to move: that the existing clause 9 of the Bill be re-numbered as clause 9(*1*) and the following new sub-clauses be added thereafter, namely:—

"(*2*) The Provincial Government shall appoint an Advisory Committee, which shall consist of—

(*i*) one member duly elected by the Bengal Provincial Co-operative Bank at a meeting specially convened for the purpose in accordance with its bye-laws;

(*ii*) one member duly elected by the Bengal Co-operative Alliance at a meeting specially convened for the purpose in accordance with its bye-laws;

(*iii*) one member duly elected by the Central Banks in the manner prescribed;

(*iv*) one Co-operative expert appointed by the Provincial Government;

(*v*) one Economic expert appointed alternately by the Universities of Calcutta and Dacca;

(*vi*) one member appointed by the Reserve Bank of India;

(*vii*) five members elected by the members of the Bengal Legislative Assembly by the method of single transferable vote; and

(*viii*) two members elected by the members of the Bengal Legislative Council by the method of single transferable vote.

(*3*) The term of office of, the procedure to be followed by, the quorum at a meeting of, and the manner of filling casual vacancies among, members of the Advisory Committee shall be such as may be prescribed.

(*4*) The duties of the Advisory Committee shall be—

(*a*) to advise the Registrar on all matters of policy affecting the Co-operative movement, particularly when there is to be a departure from an accepted policy or when a new policy has to be laid down;

(*b*) to advise the Registrar in respect of matters referred to in sections 55 (*c*), 56 (*4*) (*c*);

(*c*) to advise the Registrar in regard to any matter relating to the Co-operative movement which may be referred to it by him from time to time;

(*d*) to advise the Provincial Government in respect of matters referred to in sections 8, 10, 33, 58; and

(*e*) to advise the Provincial Government in matters which may be referred to it by the Provincial Government from time to time."

Sir, the underlying reason for my moving this amendment is shortly this. If you look at the Preamble, you will find it stated: whereas it is expedient to make further provision for the formation and working of co-operative societies, and for the promotion of thrift, self-help and mutual aid among persons of moderate means with needs and interests in common, to the end that better conditions of living and better methods of production and business may thereby result. Therefore, it is absolutely clear that the whole object of the co-operative movement is to promote self-help and self-reliance. With that object in view we should make such provisions that Government interference may be reduced to the minimum that may be absolutely necessary for the carrying on of this movement. It is in order to soften the rigours of officialisation that we have introduced this amendment. I hope the Hon'ble Minister in charge of the Bill will not misunderstand us when we move our amendments. It is simply with the object of improving upon the Bill that we have suggested amendments and we are equally anxious with the Hon'ble Minister in charge of the Bill to improve the conditions of our co-operative societies. The Congress party stands for the spirit of self-sacrifice and is willing to stake everything for the improvement of the people at large without any distinction of caste, colour and creed. This co-operative movement is entirely a people's movement and on principle the suggestion of a representative committee on co-operation should be accepted. I suggest to the Hon'ble Minister to look into the relevant pages of the Madras Report. Further, I may be allowed to refer to page 82 of Calvert's Law and Principles of Co-operation, where it is laid down that the movement must in its essence be a popular one and nothing should be done to weaken the feeling among co-operators that it is based upon self-reliance and independence. Government, therefore, in the best interests of the movement, must not allow co-operation in this country to become an official concern managed by State establishment. The concrete suggestions embodied in this amendment of mine have been taken from the Government of India resolution. The Registrar is primarily responsible for seeing that a new society is formed on a sound basis. I may also say that in India, however, as in Japan, co-operation has been initiated and furthered from above by governmental power. Neither class-bound nor State-bound, co-operation appears to have a magnificent opportunity. Both the Preamble of this Bill and the authorities of this movement are unanimous that this

movement should be run on the principle of self-reliance. This movement ought to be run on the principle of self-reliance and the people must be taught how to do so through the movement of co-operation. The spirit of co-operation should be voluntary. So, these persons who will be appointed to the Advisory Committee will be between the people and the Government, and these members of the Advisory Committee being representatives of the public and some of them being experts will be able to hold a balance between the co-operators and the Registrar who has been, as we know, Hitlerised in this Bill. Sir, although our Ministers hate anything which smacks of Fascism are encouraging Fascism in this Bill to a very great extent,—or should I rather say to an absolute extent.

With these words, Sir, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that the existing clause 9 of the Bill be re-numbered as clause 9(*1*) and the following new sub-clauses be added thereafter, namely:—

"(*2*) The Provincial Government shall appoint an Advisory Committee, which shall consist of—

(*i*) one member duly elected by the Bengal Provincial Co-operative Bank at a meeting specially convened for the purpose in accordance with its bye-laws;

(*ii*) one member duly elected by the Bengal Co-operative Alliance at a meeting specially convened for the purpose in accordance with its bye-laws;

(*iii*) one member duly elected by the Central Banks in the manner prescribed;

(*iv*) one Co-operative expert appointed by the Provincial Government;

(*v*) one Economic expert appointed alternately by the Universities of Calcutta and Dacca;

(*vi*) one member appointed by the Reserve Bank of India;

(*vii*) five members elected by the members of the Bengal Legislative Assembly by the method of single transferable vote; and

(*viii*) two members elected by the members of the Bengal Legislative Council by the method of single transferable vote.

(*3*) The term of office of, the procedure to be followed by, the quorum at a meeting of, and the manner of filling casual vacancies among, members of the Advisory Committee shall be such as may be prescribed.

(*4*) The duties of the Advisory Committee shall be—

(*a*) to advise the Registrar on all matters of policy affecting the Co-operative movement, particularly when there is to be a departure from an accepted policy or when a new policy has to be laid down;

(*b*) to advise the Registrar in respect of matters referred to in sections 55 (*c*), 56 (*4*) (*c*);

(*c*) to advise the Registrar in regard to any matter relating to the Co-operative movement which may be referred to it by him from time to time;

(*d*) to advise the Provincial Government in respect of matters referred to in sections 8, 10, 33, 58; and

(*e*) to advise the Provincial Government in matters which may be referred to it by the Provincial Government from time to time."

Mr. NARESH NATH MOOKERJEE: On a point of order, Sir. We have got an amendment Nos. 55-58 which relates to the appointment of Registrar. We have not finished with that and we seem to be going on now to consider how an Advisory Committee should be appointed. Sir, clause 9(*1*), I think, should be taken up later.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, my amendment is different from this one.

Mr. PRESIDENT: You have moved your amendment already. Now you will speak on it.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, the Registrar has been made the pivot of the whole co-operative organisation as contemplated in this Bill. His authority has been so widened and his powers made so extensive and far-reaching that it will depend mostly upon his efficiency, discretion and wisdom, whether the co-operative experiment will suceed or not in this province.

Sir, I am not one of those who take objection to the Bill, because its first and foremost objective is to tighten the authority and control of the Government over the working of the co-operative societies in the province. It would have been ideally good no doubt, if, as in certain classic lands of co-operation, the co-operative organisation in this country could throw up from within an efficient system of control and supervision. But, Sir, no such system, to our regret, could be built up in our province. Our experience, on the contrary, tells us that left to themselves the co-operative institutions in Bengal

are apt to run wild and involve both themselves and their unsophisticated patrons and supporters in ruin. In view of this fact, I do not grudge the Government the extensive powers which the Bill happens to assign to it. I agree, Sir, that in the absence of a proper system of internal control and supervision, some external control must be provided for. This external control can certainly be exercised in Bengal by the Government through its Registrar.

But while, Sir, I readily admit that the powers of the Registrar have to be widened and extended as provided for in this Bill, I do think that these powers he should exercise only after consulting and securing the opinion of a committee of experts who may speak with sufficient experience of co-operative affairs in Bengal. The Registrar has been given such important and responsible duties as of entertaining or rejecting applications for registration, of accepting or turning down all proposals for amending by-laws, of imposing upon a co-operative society certain by-laws, of dissolving and reconstituting a managing committee and also of imposing an arrangement upon all creditors, which may have been arrived at by a majority of them.

I think, Sir, these are powers of a drastic character which the Registrar should, in his interest as well as in justice to all concerned, exercise only after consulting the advisory committee. The final responsibility for any action will no doubt attach to him alone. But, still I feel he will exercise his powers better and discharge his duties more efficiently if he is required by Statute to consult an Advisory Committee.

With these few words, Sir, I move the amendment and commend it to the House.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I find this is the longest amendment in the history of our House. It is, moreover, a very unlucky amendment. I find the number of members proposed for this Advisory Committee is 13. That is an unlucky number. I believe the honourable mover was actuated by a sense of humour in suggesting this number. Probably he wished the whole thing to be unlucky. There are, further, some technical errors in this amendment. In sub-clause (3), there is a reference to central banks. I believe when the Bill will be passed, the expression "central banks" will be dead as mutton. For there is no mention of central banks anywhere in the Bill. We have now "financing banks" which take th place of the vanishing central banks. Central banks would be quite obsolete under the present Bill and the expression would be an anchronism and unintelligible.

Now, Sir, the other objection to this amendment is that it gives too detailed a machinery to be accepted off-hand. There are experts to be taken from various directions and through various channels, there are

so many catches and so many conditions, so many ifs and buts, that as a whole it is very difficult to foresee what would be the effect of an Advisory Committee like this on the co-operative movement. It may help or it may retard the movement. Perhaps it would act as a brake on the speedy and smooth working of the machinery. I find a member of our party has suggested an amendment for an Advisory Committee and he has proposed a new clause 80A. We have not yet fully considered the matter. We will very soon consider it. The proposed new clause 80A is much more elastic. We have not yet been able to fully consider it. The various amendments are being carefully considered by us, but the amendment under consideration is too detailed, too cumbrous and too elaborate to be accepted at once. It seems to be too good to be useful. Unless we are satisfied that the Advisory Committee proposed would be really useful, we cannot accept it.

In these circumstances, I beg to oppose this amendment.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I have listened to the oration of my friend Khan Bahadur Naziruddin Ahmad. He has spoken on the motion that has been moved by my friend Mr. Shrish Chandra Chakraverti and commented upon it by saying that it is too long and it is in great detail. But he has not a single word to utter about the amendment which has been moved by my friend Mr. Birendra Kishore Roy Chowdhury. That amendment consists of only four lines. That amendment speaks of an Advisory Committee to continue for three years to advise the Registrar on all matters of policy that are adumbrated in this Act.

Sir, I rise to support both the motions. I support the motion that has been moved by my friend Mr. Birendra Kishore Roy Chowdhury and also the motion that has been moved by Mr. Shrish Chandra Chakraverti. Sir, according to an eminent economist the co-operative movement revolves round one individual, the Registrar. His position is unique. He not merely fulfils all the requirements of the law but guides and controls the entire movement and directs the policy. Sir, if the members of this House have carefully gone through the provisions of this Bill, as I think they have, they have certainly found that the provisions contain legislation for audit, arbitration, inspection, liquidation of societies and define also the extent and nature of the several forms of official control over them, partly by express provision in the Statute and partly by the rule-making power to be exercised by the Provincial Government. Sir, this being the situation, I desire to assure the Hon'ble Minister on behalf of myself and this party that our desire to see the co-operative societies grow and prosper is no less than his, but that we are anxious that the co-operative societies should be allowed to grow without being coerced by anybody. Co-operation implies co-operation between equals. The position that has been

created by this Bill by some of the sections has been the position of a school master and a school boy so far as the position of the members of the village societies are concerned. We wish to remove that impression from the mind of the people of Bengal. We wish to emphasize the fact that the powers of the Registrar are very necessary. Sir, I was myself a member of a certain Central Co-operative Bank and in that capacity I had to visit several village societies. I found in some of them laxity in keeping accounts. I found also that some members were not very particular about the money. I am quite certain that these instances were very rampant throughout the province and this must have induced the authorities to bring about a legislation like this giving very wide powers to the Registrar and also to the officers who are going to assist him. While on the one hand we admit that some powers like these are very necessary, we are at the same time very anxious to create an impression on the minds of the people of Bengal that there is a certain body which is going to advise the Registrar at almost every turn with respect to the policy and the principle that will be followed in the execution of the provisions of this Act. Once we can do that, a great deal of suspicion will be removed.

Now, it will be found that while all sorts of advantages have been given to the officials that will be serving under the Registrar, the non-officials who will be responsible for the growth of the co-operative societies and even for their maintenance have been placed in a position of subservience and they will always feel that at every turn they may be put to difficulty by the officers themselves. But if these self-respecting non-officials who will be the life tree, I should say, of all these co-operative societies can be made to believe that there is nothing wrong with the Government, that their sole intention is to give them a good footing, if they will be assured that the Registrar in the exercise of his wide powers will be advised by an Advisory Committee consisting of experts, I think a great deal of suspicion will be removed and there will be every possibility that these co-operative societies will thrive and prosper.

With these words, Sir, I support both the amendments.

Mr. NUR AHMED: Mr. President, Sir, I do not think that any useful purpose will be served by appointing an Advisory Committee. Judging from my own personal experience of other Advisory Committees, I do not think it will be at all helpful to the proper working of the co-operative movement in Bengal. Sir, there are no two opinions that the co-operative movement should develop on proper lines in the best interest of the country. And when the Registrar is for the first time going to be entrusted with so much power under this Bill, it is desirable that there should be something to guide him on the proper path. There is

no doubt about that. But the question is: how far the proposed committee will be of any use of him? Firstly, it appears that in the committee out of a total of thirteen members five will be members of the Legislative Assembly and two will be members of this Council, so that these seven members of the Legislature will constitute a majority and will therefore be the deciding factor in every case. Judging from that point of view, I do not think there will be any necessity for having such a committee. There is already a standing legislative committee to advise the Hon ble Minister in matters of policy connected with the Co-operative Department. Secondly, the question is: how far it will be a practical proposition? There are at present about 25 to 30 thousand co-operative societies in Bengal, and if the Registrar has to seek the advice of this committee on every minor point, what will be his position, how will he act, what will be the cost for such a committee, and what will be the result of their advice? After all, Sir, it will be an Advisory Committee, and there is nothing in the provisions of the Bill to lead us to expect that its advice will be binding either on the Registrar or on the Government. I, therefore, fail to understand how far it will be useful and beneficial.

With these words, Sir, I oppose the amendments.

Rai Sahib JATINDRA MOHAN SEN: Sir, on behalf of the party which I have the honour to represent, I fully support the two amendments moved by Mr. Birendra Kishore Roy Chowdhury and Mr. Shrish Chandra Chakraverti respectively.

My honourable friend Khan Bahadur Naziruddin Ahmad began his speech by characterising Mr. Shrish Chandra Chakraverti's amendment as an ill-chosen, ill-conceived and unlucky amendment. My honourable friend said that it is an unlucky amendment inasmuch the number of members which would constitute this committee would be 13. But, Sir, so far as we Hindus are concerned, we do not consider 13 to be an unlucky number. On the contrary, we consider 13 to be a very auspicious number. The fulfilment of object is achieved when we do it on the "Traiyodashi" day, i.e., on the 13th day of the moon. It may bode ill for some people, and certainly it will bode ill for some people in this case, because it will be a sort of a break on the activities of the present Registrar; but so far as our province is concerned, I think it would do very good. So, from the point of view of the number we can say that the committee would be a very good committee. But apart from that, we have to consider the real merits of the amendment. So far as the amendment of Mr. Birendra Kishore Roy Chowdhury is concerned, it does not indicate the manner or the persons who would constitute the committee. It merely says "an Advisory Committee of experts to advise the Registrar" be formed. But the amendment which has been moved by Mr. Shrish Chandra Chakraverti gives a complete

indication and also states the personnel of the committee. So far as the personnel of the committee is concerned, we find that there would be certain members elected by the Legislature. You cannot possibly take any objection to the election or nomination of members to the Advisory Committee by the Legislature. Then we find that one member would be elected by the Bengal Provincial Co-operative Bank. It cannot be doubted that the Bengal Provincial Co-operative Bank is a body highly competent to select or elect a person to be a member of the Advisory Committee. Then, Sir, the second member will be elected by the Bengal Co-operative Alliance: we cannot doubt for a moment the ability of that body to select or elect a member who will be competent to serve on the Advisory Committee. Then, again, there will be another member elected by the Central Banks, and I think no question can possibly be raised against that selection. One co-operative expert would be appointed by the Provincial Government. So, we find that as many as four persons would be on the committee who will have experience of the co-operative movement and who will be highly competent to serve on the committee. Then, Sir, one Economic Expert would be appointed as member alternately by the Universities of Calcutta and Dacca. So far as the University of Calcutta is concerned, we have heard many things alleged against them, but one cannot certainly question the right and the capacity of the University of Calcutta to appoint an Economic Expert alternately with the Dacca University. Then, Sir, one member will be appointed by the Reserve Bank and I think nothing can be said against this appointment. Thus, it will be seen that this Advisory Body would be a very competent body for the purpose of advising the Registrar in dealing with the various subjects that will come under his consideration.

My honourable friend, Mr. Nur Ahmed, in opposing this amendment has said that the cost of calling this committee should be taken into consideration. In view of the importance of the subject we can very well say that the cost would not be much and if some cost be incurred that should be incurred in the interest of the country and the successful working of the co-operative movement. It has been said that the opinion of the Advisory Committee would not be binding on the Registrar. But the question of the advice being actually binding on him is not of so much importance for we can very well say with confidence that when a body like this gives certain advice we can expect that whoever may be the person holding the office of Registrar, will certainly listen to the advice of such a body. My submission, therefore, is that this amendment should be accepted by the Government. By this amendment it is not proposed to curtail the power of the Registrar in any way. On the contrary, it will enhance his position, it will enhance his usefulness and it will also enhance the prestige of the office which he will hold. It cannot be said that he will be

hampered in his work by an Advisory Committee like this. On the contrary, I should think that it will be helpful to him in the discharge of his onerous duties. With these words, Sir, I support the two amendments moved by Mr. Birendra Kishore Roy Chowdhury and Mr. Shrish Chandra Chakraverti.

Mr. A. F. STARK: Sir, the European party are opposed to these amendments. The last speaker has admitted that these amendments are intended as a brake on the Registrar's powers. If we are going to give these powers to the Registrar, we want them to be effective. I very much doubt if the Registrar will be able to use these powers if he has always to refer to an Advisory Committee, particularly if such a committee is composed of a majority of political members, as has been proposed in the amendments Nos. 64-67 moved by Mr. Shrish Chandra Chakraverti and No. 68 moved by Mr. Lalit Chandra Das.

We are all the more opposed to these amendments, because there are already in existence numerous bodies which are quite capable of acting as advisory bodies. I refer to the Government Standing Committee on Co-operation, to the Provincial Co-operative Bank and to the Bengal Co-operative Alliance. So, I do not think an Advisory Committee is necessary when we have already these bodies in existence. Moreover, I think, the Advisory Committee, if appointed, would prevent the Registrar from effectively exercising his powers. With these words, I oppose the amendments.

Dr. RADHA KUMUD MOOKERJEE: Sir, I rise to support both the amendments which have been moved on behalf of the Opposition.

When I listened to the speech of the legal spokesman of the Coalition Party, Khan Bahadur Naziruddin Ahmad, I thought that perhaps the amendment of Mr. Birendra Kishore Roy Chowdhury might appeal to the Coalition Party and to Government more than the other amendment which has been proposed by my friend Mr. Chakraverti. I hope Khan Bahadur Naziruddin Ahmad has not treated the Council in a light-hearted manner. I hope he means what he says. Speaking on amendment No. 54, I think that if the Opposition has merely contented itself with proposing this amendment, the objection from the Coalition Party would have been that in the amendment we have simply given a proposal which is very vague and is in the air and that nobody can understand the real import of what is meant by an Advisory Committee. Therefore, to safeguard that kind of criticism and anticipating that kind of opposition, we have tabled another amendment in order to show the complete picture of what we mean. If the Government is prepared to accept the principle involved in the creation of an Advisory Committee, I think we shall not be particular about forcing upon Government its details e.g., how the Advisory Committee should be

constituted. We may at least trust the Government with the formulation of details in proper time. We have also proposed that this Advisory Committee may be tried for a period of three years. So we have really in these two amendments given ample scope and range of choice to Government. If they are really bent upon understanding our point of view I think we have made the path very easy for them. But if they are bent upon differing from the Opposition as a matter of principle always, if they think that we simply oppose for the sake of opposition and whatever comes from us is to be opposed, then, certainly, there is no common ground between us. This common ground is restricted by the manner in which Government is turning down many innocent, harmless and beneficial proposals put forward by the Opposition. The fact of the matter is that these two amendments really are to be understood as organic parts of a scheme and so far as the scheme and the fundamental conception of co-operation are concerned, perhaps the Government and the Opposition cannot see eye to eye on them. Government has somehow persuaded itself that the movement of co-operation in the Bengal Presidency has been a failure owing only to the defects of the people and the remedy that the Government wants to propose is that unless the co-operative movement is directly controlled by Government, there is no chance of its success in this Presidency. We have not been to persuade ourselves as to the truth of the Government's standpoint. On the contrary, we think that if really it is the intention of the Government to bring about improvement of this movement of co-operation among the people, the best would be for them to adopt a proper psychological attitude. The moral factor is more important than the administrative factor in achieving success in a movement like the co-operative movement. We are out here to develop ideas of thrift, co-operation, self-sacrifice and team spirit. Now, all these virtues cannot certainly be manufactured by any administrative department. They are a matter of growth and if you have to achieve the moral growth of the people, that can only be done by taking such measures as will develop the social tissue of the people which for want of exercise have been absolutely moribund. Now, in the other wider spheres we almays say that it is self-government alone that can fit a people for self-government and that it is liberty alone that can fit a people for liberty. If you, therefore, want to train up people in co-operation you must give more room for co-operation, more room for self-help and you must relax your control and see that the people can support their own endeavours by themselves subject to the general supervision of the Government.

Now, unfortunately, this Bill has been conceived in quite a contrary spirit. The framers of this Bill think that they can somehow produce a co-operative movement by directions from the Writers' Buildings as if all these moral qualifications, the moral progress of the

people concerned can be achieved by the hat of the law-makers. Therefore, their angle of vision is completely different. The Government method of approach is absolutely different from ours. That is why we are always at daggers drawn here on the floor of the House on this and on many other matters. At least so far as the co-operative movement is concerned, I hope that the Government will shed all their bureaucratic ideas and in a genuine democratic spirit see how the people can be made to grow in habits of collective work. Well, they want to organise a co-operative movement on the basis of a principle which runs counter to the spirit of co-operation with the result that the Government probably by their actions will drive away out of the sphere of co-operation many people, many public workers and they will generate a counter movement of non-co-operation, as my friend has just now suggested. There will be growing up a spirit of non-co-operation with the co-operative movement itself by the manner in which all these provisions have been framed.

Now, the real purpose of this amendment, however, is to work out some kind of adjustment between the Opposition point of view and the Government's. Supposing we say that you invest your Registrar with dictatorial powers; supposing we say that you are right in thinking that the co-operative movement cannot succeed unless it is vigorously controlled by the Government department; granting all that we say that it won't be right for you to set up a system where power is divorced from responsibility. Now, the object of this amendment is to see that this dictator of a Registrar will be made to work with a proper sense of responsibility, and, therefore, we say in order to make your Registrar more efficient and more responsible the best way would be to associate the Registrar with some kind of democratic agency whereby his dictatorial tendencies and autocratic powers might be somewhat checked.

Now, what is the meaning of this advisory council? We say first of all that it is strictly advisory. It is never meant to be mandatory. We have heard too much of mandates. The doctrine of mandates is an exploded doctrine. We are simply offering you some machinery whereby the Registrar will be enabled to perform his duties in a far more efficient manner on the basis of expert advice which he can draw upon always whenever it is necessary for him to do so. This body, therefore, is strictly advisory in its character. And, secondly, we ensure that the kind of advice that will be available for the Registrar will be really an advice which must be regarded as extremely reliable, scientific and expert. In order that the Government may really know the details of the picture we have in view, we have just proposed a sort of personnel for the Advisory Committee. We do not mean to say that in our proposals we want that the Government should be bound hand and foot by the particular personnel suggested here. I agree with Khan

Bahadur Naziruddin Ahmad that if it is a question of details we are prepared to waive these proposals about the details if the Government are prepared to accept on principle the proposal of setting up an Advisory Committee. That is why we state that by the two amendments we have given the Government really a wide field of choice.

Now, what is the picture that we give to Government? First of all, as the previous speakers have already pointed out, some of these members really are to be elected by associations upon whom the Government depend for the successful working of the Co-operative Department. So, there can be no objection absolutely to the introduction of these members, because they are members who will be elected by the associations with whom the Government have to deal.

Now, as regards the technical difficulty in the drafting about the central banks, we are quite prepared, as Khan Bahadur Naziruddin Ahmad has said, to replace the words central banks by financing banks.

One Co-operative Expert is to be appointed by the Provincial Government. Certainly there cannot be any objection to a Government nominee being introduced. Then we shall want an economic expert to be selected alternately by the two universities. The Reserve Bank of India is not an institution to be neglected so far as the vast financial interests of the co-operative movement are concerned and, therefore, the Co-operative Department should welcome the introduction of a member to be appointed by the Reserve Bank of India.

Now, as regards the other two items, namely, five members are to be elected by the Assembly and two members by the Council, I am sorry to say that one of the members of this Council went so far as to say that he does not place much confidence in the utility of his own colleagues on an Advisory Committee for the Registrar. Well, that is a position with which I hope no member of the Assembly or the Council can agree. Certainly the five members of the Assembly and the two of the Council make up 7 out of 13, but this narrow majority we should not grudge; because after all the Legislature is the ultimate authority over the Government themselves and there are many departments where the two houses of the Legislature are empowered to elect members to advise Government. As there is the contingency that these seven members would practically be nominees of the Government who command such a large majority in both the houses of the Legislature, I should say that the whole body in its personnel will be practically a body composed of Government nominees.

Khan Bahadur NAZIRUDDIN AHMAD: No, that won't be, because there will be single transferable vote.

Dr. RADHA KUMUD MOOKERJI: Well, in spite of that I can prove to you that the majority will have its due weight. However, if that is the only detail at which you will start, I for myself will be quite prepared to leave it as it is and you may frame your own details.

Now, please look at the picture that the Government is presenting before you. The Government is presenting before you a person like the Registrar who will have the power to see that no co-operative society can manage its own affairs in its own way in a truly democratic manner. If it is an application for registration and even if the application conforms to all the rules laid down for the purpose, the Registrar is given the power to nip the co-operative movement in the bud by refusing registration. That is how he starts his new work. (Mr. ABUL QUASEM: Well, he will be paid and appointed for doing that.) My point is that when a co-operative society is working according to your rules and terms and applies for its registration strictly conforming to the rules, the Registrar has the power to turn down such an application instead of giving this new society even a trial. And, secondly, I just place before you the picture of what the Registrar is going to be. He will have the power to nip in the bud all co-operative ventures springing up on the countryside.

Now, Sir, nobody will undertake this thankless job of getting up a co-operative society under such conditions where even the mere application for registration may be turned down. Although the application will be legally flawless, yet the Registrar will have the power by the autocratic exercise of authority to turn down the very application for registration. Supposing again, that a co-operative society finds that it needs to amend some of its by-laws and this proposal is passed by the general body of the society, by the general assembly of its members, even then the voice of this society will be stifled by the stroke of the pen of the Registrar. Now where is the democracy left under this regulation? Thirdly, the Registrar will not merely have the power to disallow the resolution passed by the general meeting of the co-operative society, he will have the extraordinary power of imposing upon that particular society his own laws and by-laws, his own regulation. Now is this what you are really promoting by this regulation? Is this really promoting the co-operative movement as a spontaneous growth out of the social conditions of the people, or is it showering upon the people your aerial flowers? Will these flowers be regarded as real growths of the tree beneath? This is what you are doing but the picture is not yet complete. The Registrar has been given the power to dissolve a managing committee and re-constitute a managing committee. Now, supposing when you again get a managing committee by some kind of election, supposing the same dismissed managing committee is returned, what will you do? I cannot see the purpose of such extreme regulations, because, as I said, your method

of doing business is giving impetus to a spirit of non-co-operation with you. Suppsing the managing committee that has been elected by the voice of the local people is dissolved—well, you may dissolve it—but if you want to have another election to get to another managing committee, the same managing committee would be returned. In that way you will have to face the music that you are creating here in this piece of legislation. So this is how the movement is going to flourish.

Then again, as regards the creditors the society will have no voice in regulating the relations between the debtors and the creditors, a most primary function for which the society is brought into being. All this will be denied by the Registrar on his own personal responsibility. He will have the right to impose financial arrangements upon all creditors without reference to the society or to its opinion. Now we are really trusting the Registrar with untried and extraordinary powers. Perhaps the Hon'ble Mr. Mullick who has been in charge of the Co-operative Department for the last three years finds that he is to take recourse to this drastic remedy by which he will reform co-operative soiceties out of existence. There will be the semplance of the word "co-operation"; the word "co-operation" will be retained, but the spirit of the word "co-operation" will be gone. Therefore, I say that granting that your view is right, that Government is right in condemning the people of Bengal as being unfit for co-operation and any kind of associated enterprises—a view which we shall never endorse—supposing you take that pessimistic view and supposing you pass this unqualified condemnation upon your own people, supposing that you take it for granted that a rotten state of things is going on in the co-operative movement—and we must take you at your word as you know best the present state of affairs of this movement—even then, all that justifies our demand for an expert committee to start with, so that we may know what are the evils, how many are they. But even after admitting that the movement has been a failure, you are by opposing this amendment shirking an investigation into the causes of its failure by an expert committee. Whenever such a thing has happened, there has always been a preliminary committee of enquiry, but you are so impatient in your zeal for reform that you do not brook any delay. As I have already said, this is another illustration of your despotism that you do not brook any delay.

Then, Sir, what is the underlying meaning of this amendment? Our amendment only proposes to set up some kind of machinery by which you can guarantee a wholesome exercise of the dictatorial powers conferred on the Registrar for the benefit of the movement. You may constitute the Advisory Committee in any way you like; we have given a you a wide range of choice. First of all, you accept the principle on which our amendment is based. You should recognise the need for seeking expert and reliable advice

of a responsible committee. Sir, this kind of machinery has already been set up in the case of so many departments of governmental activities; it is not that we are seeking to impose upon you an innovation in the history of administrations. Even now at the Centre the Government of India themselves are very anxious to create an advisory council and also an expanded Executive Council with whose advice they propose to administer the affairs of the country in these difficult times. Therefore, when the trend is more and more towards democracy and the expansion of its principles, I do not see why the principle of autocracy will be reserved for application to a sphere where it is absolutely out of place. The other day the Hon'ble Minister for Co-operation fought shy of the idea of the Public Service Commission making certain appointments on the ground that the Public Service Commission is an important deduction from the autocracy of the Government——

Mr. PRESIDENT: Order, order. The honourable member is now repeating himself and dealing with amendments other than the ones under discussion.

Dr. RADHA KUMUD MOOKERJI: I was just giving an illustration of what I mean about his objection to the Public Service Commission because it is an important deduction from autocracy. Similarly, the Hon'ble Minister might object to the Advisory Committee because it is another deduction from autocracy. I would ask Government to be reasonable with reference to this harmless and innocent amendment which proposes to establish some kind of procedure, and we would leave it to Government to constitute the committee as they pleased and we would also leave it to Government to propose the terms and conditions of that committee. I make this my last appeal to the Government for a little exhibition of common sense, and when the legal spokesman of the Coalition party,—I mean Khan Bahadur Naziruddin Ahmad,—seems to agree that on principle the amendment seems to be all right, I hope and trust that my anticipations will be accepted as quite correct. Sir, we are prepared to waive all the details that we have suggested, provided the principle is agreed to. I hope either of the two amendments will be accepted by Government.

Mr. KADER BAKSH: Mr. President, Sir, I had no desire to take part in the debate on this amendment, but I am compelled to do so by the manner in which the learned doctor has just spoken. It simply amuses me to find that he moves about in the region of imagination.

Sir, he brought in matters which had been already discussed and as such were irrelevant to the point at issue. His trend of argument shows that he scents suspicion in everything and thinks that this Bill

has been introduced solely with the object of making the Registrar a "dictator", and that this Bill has no other object in view either for the reorganisation of the department or of the movement. Now, Sir, he seems to claim that he is the only man or his party is the only party which is anxious for the success of the co-operative movement, as if the members of the other parties in this House have no anxiety for, or interest in, that movement. He is of opinion that the powers sought to be taken under this Bill are unjust and unnecessary. He wants to make the law more stringent by not giving any power to the head of the department. He has also supported the proposal for having an Advisory Committee for the department. Sir, if there is to be an Advisory Committee for the Co-operative Department, why should not there be such a committee to advise you as the President of this Council, why should not there be an Advisory Committee for the Department of Industries; why should not there be an Advisory Committee for every department of Government? I submit that the learned doctor has no courage to bring in an amending Bill or a special motion or a resolution proposing the constitution of Advisory Committees for all the heads of departments. Had there been any substantial ground behind this amendment, he should have taken care to bring in similar proposals with regard to other departments.

Then, Sir, he sees nothing in this Bill but a bureaucratic spirit pervading throughout the provisions of this Bill. The reason for this is that his mind has been pre-occupied with nothing but bureaucracy, autocracy, democracy, dominion status, and such other political terms, and nothing else. He cannot think of anything else; he cannot think of anybody else except his own party having an honest intention about any matter, as if they have monopolised to themselves all honesty. This, Sir, is a mentality which should not be encouraged in any way; rather it should be discouraged and deprecated in strong terms. He has tried to impute motives to Khan Bahadur Naziruddin Ahmad. He has called him the legal spokesman of the Coalition party. Sir, everybody can speak as he thinks right and proper and the Khan Bahadur has spoken according to the light that is within him. But I submit that the learned doctor has not monopolised all intelligence to himself as he seems to imply by his sarcastic remark about the Khan Bahadur.

Now, Sir, this Advisory Committee, whenever and wherever it has been formed, has been found to be an obstacle to the smooth working of the department concerned. It has never been helpful in any way. I know of Advisory Committees in the districts, but they have not been able to do what they had been constituted for. Then, there are the Railway Advisory Committees; what have they done excepting that the members constituting them have got something for their own

selves: neither have they done anything for the travelling public nor for the smooth administration of the Railways. As a matter of fact, these Advisory Committees are composed of people who have never cared to look after the interests of the departments for which they have been constituted——

Mr. LALIT CHANDRA DAS: How do you know that?

Mr. KADER BAKSH: I know that from my personal experience.

Then, Sir, there has been no suggestion with regard to the cost of such an Advisory Committee. As my friend, Mr. Nur Ahmed, has said, this committee will simply be a burden on the provincial exchequer without any adequate return for the expenditure to be incurred on its account.

As regards the constitution of the committee, it has been suggested that one Economic Expert should be appointed alternately by the Universities of Calcutta and Dacca; I ask, why not by the University of Allahabad?

Mr. LALIT CHANDRA DAS: Dr. Mookerji does not come from Allahabad.

Mr. KADER BAKSH: Why not by the Universities of Allahabad, Lucknow, Delhi or of any other place?

Now, Sir, we know fully well that any advice given by the learned doctor will be of a theoretical nature, but it will never be of a practical nature. So, if we follow him we will all be led to the ditch into which he has fallen, like the blind man. The learned doctor did not see eye to eye with us on the occasion of the passing of the Bengal Tenancy (Amendment) Bill but only scented bad motives in it, which, however, he did not do in respect of the Floud Commission. If he suspects Government in every matter, if he attributes motives to every Bill, then it is no use bringing in any Bill in the Legislature. It will only serve our purpose, according to his ideas, if we come and sit here, talk together and then depart. In order to frustrate the object of this Bill, he is supporting the constitution of this unwieldy committee consisting of thirteen persons of whom seven will be members of the Legislature. These seven constituting a permanent majority in the committee will virtually become the dictators and will interfere with the powers of the Registrar in every matter. Therefore, the Advisory Committee will only hamper the smooth working of the co-operative movement and will ultimately bring it to a standstill.

On these grounds, Sir, I oppose the amendments suggesting the formation of an Advisory Committee.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to reply to some of the salient points raised by my honourable friend Dr. Radha Kumud Mukherji. He has said that democracy should not be given the go-by and Hitlerism should not be brought in for ameliorating the condition of the Co-operative Department. It is true that the Co-operative Department and the co-operative movement should progress on democratic lines but we have seen it for the last 30 years that idealism was tried in the Co-operative Department and failed, and it has been a miserable failure with the result that an impasse and a deadlock have been created——

Dr. RADHA KUMUD MOOKERJI: Whose fault it is?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Illiteracy is the only cause. You cannot expect illiterate people to understand the principle of co-operation, self-help and such other things. They cannot possibly understand them. There is another factor—the question of poverty. They are so poor. It is very easy to advise them to be thrifty but it is not so easy for those poor half-starving men to be thrifty. Whenever they will get something they will spend, and you cannot expect them to put by a portion for debt clearance. Do you think it will be possible for you, placed in the same position, to observe the principles of co-operation and thrift? We will not be able to observe those principles although they are very good by themselves. If you go deep into the matter, you will find that illiteracy and poverty are the real causes of failure of co-operative principles. If you want to try those principles in a country the conditions,—economic and educational,—of which are such, they are bound to be a failure. At the same time we say that we have got to do something for agricultural finance. It is a business proposition and you must proceed with it in a businesslike fashion, and our object really is not so much to hold up the ideal of co-operation as to see that we can secure money for the poor agriculturists by some methods by which they may be able to get money on a reasonable rate of interest whenever they are really in want. That is the real object and for this real object we are prepared to sacrifice the ideal of co-operation which we have tried and found to be a failure.

Sir, we are now in a life and death struggle for saving the co-operative movement itself. The whole thing has come to a deadlock. Sir, even in democratic countries, even in the mother of democratic countries, the Britishers at times of war have resorted to very unusual methods. Their Ministers have now been given practically the power of a dictator. They can do anything they like. They can even take the money from banks deposited by other people without giving any notice to the depositors. The same is the case with the co-operative

movement. It is now faced with a life and death struggle. If you want to save the movement, you must give the Registrar or somebody who has to control the department sufficient power in order to see if he can at least save the movement from utter death. Sir, this much I admit that the Bill as drafted is not really a co-operative Bill; it ought to have been probably given some other name—it ought to have been called a Rural Financing Bill. There is little of the principles of co-operation in it except that there would be joint and several liability of all the members in the co-operative societies, which is necessary for securing money for financing the agriculturists. But, Sir, after the thing has come to a normal condition it will be possible——

Mr. PRESIDENT: Order, order. I am reluctant to interrupt the honourable member but he is now speaking on matters which are relevant only at the Third Reading. They are not relevant on the point at issue. I would like to remind the honourable members who are anxious to have this Bill passed this session, to curtail their own speeches. If the progress goes on in this way, the Bill cannot be expected to be passed during this session.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I was not going to speak on these things. I really wanted to reserve them for the Third Reading. But as my friend Dr. Mookerji said something I was going to reply to him.

Now I come to the real point. As I have said, some special powers are necessary for protecting the whole co-operative movement from sure death and that is why the Registrar should be given some special powers, and there should not be any Advisory Committee of this nature which was likely to be a clog in the wheel, and which is likely to prevent him from exercising many of the powers which it would be necessary for him to exercise in the interest of the co-operative movement itself. For this reason, when the co-operative movement is passing through a great crisis, I think it is necessary that the Registrar should have some absolute powers and his powers should not be restricted by an Advisory Committee of this nature which has been proposed in this amendment.

With these words, Sir, I oppose the motion for Advisory Committee.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose both these amendments. Sir, I should not be justified in taking too long a time of the House by trying to reply to the various things that have been mentioned by my honourable friends sitting to my left in moving their amendments and in supporting them. Because I find that the reply that has been given by at least five of my honourable friends to my right and in my front perhaps would meet all the

objections that they have taken against the policy of the department in giving the Registrar some of the powers that he needs for the purpose of proper working of this department. Sir, I would not go into these powers but I would only mention the following to the House just to clear up some of the apprehensions that are still lingering in the minds of my honourable friends. I expected, as I said on the very first day, that I would get better treatment in this House so far as this Bill is concerned. If the honourable members had paid a little more close attention to the provisions of the Bill, they would not have, I am sure, come forward with arguments of this nature as they are now seeking to do.

Now, Sir, so far as the main principles of the Bill are concerned, I can only assure the House that we are not oblivious of this particular point, namely, that the head of the department must have advice from responsible bodies in the discharge of his duties as such. But with regard to the internal administration of a particular department, I am extremely sorry to say that it is impossible to have a body of this nature to come from outside and to control the activities of the head of the department who is sought to be made responsible for the proper working of the department.

Now, instead of going into those vague allegations, I would rather like to take the House through the suggestion that has been made categorically in the amendment moved by my honourable friend Mr. Shrish Chandra Chakraverti. There are two or three different parts of this amendment. First of all, it seeks to say something about the composition. Secondly, about the term. Thirdly, about the duties. Sir, I would not go into these details, but I am surprised that an absurd suggestion of this nature could have been so seriously made. Sir, take item No. 3 of the second point, namely, the composition, where he has said that a member should be duly elected by the central banks in the manner prescribed. My friend Khan Bahadur Naziruddin Ahmad gave an answer but I wish he had cleared up this particular point a bit more. For, when we are to deal with 120 central banks or financing banks in this province, I submit, Sir, with all respect, that it is absurd to expect these 120 central banks scattered all over the province to meet at a particular point for an election of this nature. My honourable friend Mr. Stark has said that there is a Government Standing Committee for the purpose of giving advice with respect to questions of policy. Besides, my friend Mr. Stark has also said that there is the Provincial Bank, there is the Co-operative Alliance. Co-operative Alliance is a non-official body with a non-official Chairman at its head. And the Provincial Bank is also manned by a body of directors with long co-operative experience behind them elected by the central banks with a non-official chairman who has also very long experience behind him.

With regard to the financial aspect of the question, Government do seek the advice of the Provincial Banks as also the Bengal Co-operative Alliance, On the Provincial Bank again, we have got a representative of the Reserve Bank. Therefore, Sir, it is idle to suggest that Government do not seek the advice of responsible bodies in having a definite policy of their own for the purpose of administering this department.

In the next place, if any more advice is needed from any advisory body,—and my friend Dr. Mookerji has said that this body is not going to be a mandatory body but an advisory body,—I submit, Sir, that the Houses of Legislature are there. And if they do not voice public opinion, if they do not represent public feeling, if they do not come forward with any judgment of theirs to advise Government, I do not know who else can, so far as this province is concerned. I submit, therefore, Sir, that there is hardly any justification for having a statutory advisory body of this nature as is sought to be established by these two amendments. As I said with a little bit of painful feeling that if my honourable friends had paid a little more attention to the provisions of the Bill perhaps they would not have come forward with amendments of this nature.

So far as the duties are concerned, if you take item No. (*d*), you will see, Sir, that it says "to advise the Provincial Government in respect of matters referred to in sections 8, 10, 33, 58." Now, section 8 is the general exemption clause which seeks to give wider power to the societies so that they can extend their activities exempting them from the provisions of this Act if it was so found necessary. Where does the advisory body of this nature come to function when a society has to be given wider powers in order that it may function properly with respect to its duties and with reference to its constituents? Then comes the question of clause 10, where it is said that the Registrar may delegate some of his powers to those who may be appointed to assist him. Sub-clause (*b*) says that these powers may be delegated to well-managed co-operative societies. Where does the question of an advisory body which is sought to be established in this amendment arise? I would not disturb you, Sir, with clause 33. That is another matter, but I would only place before the House clause 58 which is specifically mentioned. Clause 58 deals with contributions to charitable purposes. There, neither the Registrar, nor the Provincial Government comes to function at all. It is entirely a matter for the society which is expected after meeting its obligatory charges, to contribute a portion of their net income for charitable as well as educative purposes. I submit, therefore, Sir, if honourable members—if I may say so without disrespect to any of them—had paid a little bit of attention to these sections, they would not have come forward with amendments of this nature. I submit, therefore, looking at it from any point of view, there is hardly any justification for the House to accept

an amendment which is so absurd in its character. My friend Dr. Mookerji has said that the Registrar is going to be a dictator and is going to be vested with all sorts of abnormal powers. I think that my honourable friend Khan Bahadur Saiyed Muazzamuddin Hosain has given the right reply when he says that it is necessary that this officer should be vested with this power in order that the movement may yet be extricated out of the morass to which it has been put dut to various causes over which no human being had any control. As I have said, we do not blame any non-official. It may be that due to their ignorance and without any intention they have made mistakes. But we have said that Government also are not free from this mistake, for Government had not the proper staff. The staff had no training. All these difficulties were there. But when all these things were detected, I would submit to the House that we should be given time and chance so that we can yet rectify the mistakes and extricate this movement out of the difficulties from which it is suffering.

Now, Sir, my friend Dr. Mookerji has said that the Registrar will have the power to cancel registration, to refuse by-laws being registered and dissolve managing committees. If he will be kind enough to look to clause 15 which deals with registration of societies, clause 17 which deals with the refusal of the by-laws being registered or with clause 18 which seeks to deal with the by-laws or modification of by-laws, he will find that all these things are appealable if the Registrar goes beyond his limits. Therefore, if Dr. Mookerji had properly examined the various clauses of the Bill and had taken a proper view of the matters which have been sought to be incorporated in the clauses, I think, he would have agreed with me that there could be hardly any apprehension in the mind of any reasonable person.

With regard to the remark of my friend Mr. Lalit Chandra Das that the societies should not be treated in a school-masterly fashion by the Registrar, Sir, I do not think there is any justification for that remark. If anything is done arbitrarily by the Registrar, there is a provision for appeal against his order. If you will look into the relevant clause, you will find that where there is a question of penal provision or fine, there is also the further provision of an appeal against an order of that nature; in such cases, the appeal goes to the District Judge. Therefore, it cannot be said that there is no remedy whatsoever against the abuse of powers conferred on the Registrar. As regards the remark of my friend, Mr. Lalit Chandra Das, that the societies should not be treated by the Registrar in the fashion of a school master, I think Khan Bahadur Saiyed Muazzamuddin Hosain has fully met his argument by asserting that where the literacy is only about 8 per cent. and the village societies are run by persons who have practically no knowledge of co-operative principles, they certainly require to be guided in a proper manner. Further, Sir, the relation

between a teacher and his students is, I think, never inimical. With all sorts of queer ideas that my friends over there are suffering from, they may seem to think that the relationship between a teacher and his students is of that character. But Sir, luckily for me I was placed under a body of teachers for whom I cherish the highest regard; I am proud of the teacher who is a member of the other House, one who was one of my early college professors, and I cherish up to this day the sweet memory of how he treated us with sympathy and kindness nearly thirty years ago. I never expected that such an argument could have been advanced on the floor of this House.

With regard to the arguments of my friend, Rai Sahib Jatindra Mohan Sen, who has some experience of the working of local bodies in the mofussil, I never expected that he would put forth arguments of that nature.

Therefore, Sir, I submit that there is hardly any justification for any of these amendments being accepted by Government, and I oppose both of them.

Mr. HUMAYUN KABIR: Mr. President, Sir, the Hon'ble Minister has made a very eloquent speech, and I think it must be conceded to him that so far as amendments Nos. 64-67 and No. 68 are concerned, he has scored with regard to certain items contained therein; but it was very noticeable that he had nothing to say so far as the amendment No. 54 is concerned. I think an experienced public man like the Hon'ble Minister, one who has also some legal experience, thought that where there is a weak case, it is better to remain silent. Therefore, he concentrated entirely upon the weak points in his opponents' arguments, and everybody will concede to him that he has well taken them. On that score no member on this side can have any quarrel with him. But with regard to amendment No. 54, it became a difficult proposition with him, and the Hon'ble Minister has remained quiet on that point.

Then, Sir, there is another point which the Hon'ble Minister has forgotten to mention. He has referred to the experience of my honourable friend, Khan Bahadur Saiyed Mauzzamuddin Hosain and to the fact that he has generally opposed an Advisory Committee of the type suggested; but he has omitted to mention the name of another honourable member with perhaps even greater experience of the Co-operative Department who has tabled an amendment almost identical with this amendment. That is amendment No. 448 of which notice has been given by Khan Bahadur Ataur Rahman and which seeks to provide that "the provincial Government shall appoint an Advisory Committee to assist and advise the Registrar in the administration of the Co-operative Society in matters of policy". This, Sir, is almost identical with the amendment which has been tabled by my

honourable friend, Mr. Birendra Kishore Roy Chaudhury. I think one of the reasons why the Hon'ble Minister did not want to take amendment No. 54 was because it was related to amendment No. 448 and he did not want to give offence to that quarter.

Dr. RADHA KUMUD MOOKERJI: Perhaps that would be withdrawn.

Mr. HUMAYUN KABIR: I am not concerned with the question whether it would be withdrawn. But when a person, who was an officer of the Co-operative Department and has perhaps more experience of the co-operative movement than anybody else here, feels it necessary that there should be an Advisory Committee of this type, it must be admitted that there is some force in the demand for it. The Hon'ble Minister referred to the Bengal Co-operative Alliance and also the Bengal Provincial Co-operative Bank. So far as the Provincial Co-operative Bank is concerned, it is a banking institution and a business concern and, therefore, has no time to look after the general policy which may or may not be pursued by the Registrar, because it is not its business to look after the general policy of co-operation in the province. Its main business is to finance the central banks and also to advance money outside the co-operative societies at times, but its primary concern is with regard to transactions of a financial nature. The principles of co-operation do not concern the Provincial Bank. With regard to the Bengal Co-operative Alliance, it is a non-official body, but I think it will also be agreed that it has hardly any power. I do not know if the relation between the Co-operative Alliance and the Department has been at all specified or regularised. If the Hon'ble Minister is prepared to say that the Co-operative Alliance has some function so far as the activities of the Registrar are concerned, I think that would meet to a large extent the point with regard to the Advisory Committee, but till he makes more explicit what is the relation between the Co-operative Alliance and the Co-operative Department, the mere mention of the Co-operative Alliance does not help me at all.

Again, the Hon'ble Minister himself has started by saying that he is conscious of the necessity of a provincial head having an Advisory Committee. We also agree with him that this Advisory Committee should not interfere with the day to day administration, and we also agree with him that the provincial head should have an advisory body. If that is so, what is the quarrel between him and the honourable members on this side of the House? He concedes the necessity of having an advisory body and we agree with him that the advisory body should not interfere in the day to day administration. In that case what is the objection to the Hon'ble Minister's accepting amendment No. 54, I for one cannot understand.

Mr. AMULYADHONE ROY: May I be permitted to speak on this amendment, Sir?

Mr. PRESIDENT: When honourable members desire to take part in a discussion, they should rise early, because in this case I notice that the Hon'ble Minister will have no chance of replying to the subsequent speeches. However, I allow Mr. Amulyadhone Roy to speak.

Mr. AMULYADHONE ROY: Sir, I had no desire to take part in the debate to-day, but I cannot sit idle without any reference to the most valuable sermon given by the Hon'ble Minister the day before yesterday on better treatment, on better arguments and on no repetition. Sir, he has repeated the same argument to-day. When I was listening to the remarks of the Hon'ble Minister the day before yesterday, I thought that a Daniel had come to judgment. Instead of wasting the time of the House for nothing, the Hon'ble Minister should have reserved those sermons to himself and in case of deficiency he might have profited thereby. With these remarks, I protest against his remarks which he very often makes.

Mr. PRESIDENT: I shall put the second amendment (viz., Nos. 64-67) first.

The question before the House is the amendment of Mr. Shrish Chandra Chakraverti: that the existing clause 9 of the Bill be renumbered as clause 9(*1*) and the following new sub-clauses be added thereafter, namely:—

"(*2*) The Provincial Government shall appoint an Advisory Committee, which shall consist of—

(*i*) one member duly elected by the Bengal Provincial Co-operative Bank at a meeting specially convened for the purpose in accordance with its bye-laws;

(*ii*) one member duly elected by the Bengal Co-operative Alliance at a meeting specially convened for the purpose in accordance with its bye-laws;

(*iii*) one member duly elected by the Central Banks in the manner prescribed;

(*iv*) one Co-operative expert appointed by the Provincial Government;

(*v*) one Economic expert appointed alternately by the Universities of Calcutta and Dacca;

(*vi*) one member appointed by the Reserve Bank of India;

(*vii*) five members elected by the members of the Bengal Legislative Assembly by the method of single transferable vote; and

(*viii*) two members elected by the members of the Bengal Legislative Council by the method of single transferable vote.

(*3*) The term of office of, the procedure to be followed by, the quorum at a meeting of, and the manner of filling casual vacancies among, members of the Advisory Committee shall be such as may be prescribed.

(*4*) The duties of the Advisory Committee shall be—

(*a*) to advise the Registrar on all matters of policy affecting the Co-operative movement, particularly when there is to be a departure from an accepted policy or when a new policy has to be laid down;

(*b*) to advise the Registrar in respect of matters referred to in sections 55 (*c*), 56 (*4*) (*c*);

(*c*) to advise the Registrar in regard to any matter relating to the Co-operative movement which may be referred to it by him from time to time;

(*d*) to advise the Provincial Government in respect of matters referred to in sections 8, 10, 33, 58; and

(*e*) to advise the Provincial Government in matters which may be referred to it by the Provincial Government from time to time."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is the amendment of Mr. Birendra Kishore Roy Chowdhury: that in clause 9 of the Bill after the words "to assist him" occurring in line 3, the following be added, namely:—

"and may appoint for three years at a time an advisory committee of experts to advise the Registrar or any person appointed to assist him in matters specified in other sections of the Act".

A division being demanded, the House divided with the following result:—

AYES—16.

Ali, Mr. Altaf.
Bose, Rai Bahadur Manmatha Nath.
Chakravorti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Mookerji, Dr. Radha Kumud.
Pal Choudhury, Mr. Ranajit.
Ray, Rai Sahib Jogendra Nath.
Roy, Mr. Amulyadhone.
Roy Chowdhury, Mr. Birendra Kishore.
Sanyal, Mr. Sachindra Narayan.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—28.

Ahmad, Khan Bahadur Nazirudin.
Ahmed, Mr. Meshahuddin.
Ahmed, Mr. Nur.
Baksh, Mr. Kader.
Barua, Mr. Dhirendra Lal.
Choudhury, Mr. Moazzemali.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqul Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Ferguson, Mr. R. W. N.
Hossain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Khan, Khan Bahadur Muhammad Asaf.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, The Hon'ble Sir Bijoy Prasad.
Stark, Mr. A. F.
Talukdar, Dr. Kasiruddin.

Mr. PRESIDENT: Order, order. The House has divided. For the amendment—16; against the amendment—28; the amendment is, therefore, negatived.

Mr. PRESIDENT: Mr. Roy, your amendment is barred.

Mr. AMULYADHONE ROY: Sir, I was assured by you that this amendment No. 63 could be moved separately. My submission is this: that so far as the previous amendment is concerned, it says that the recommendation of the Public Service Commission may or may not be binding on Government. But so far as my amendment is concerned, it says that it will be binding on Government. Moreover, Sir, my amendment refers not only to the Registrar but it also refers to other persons who would assist the Registrar. On this account, I was assured that it should be moved separately.

Mr. PRESIDENT: Yes, I see there is a little difference. Your amendment is mandatory while the previous one is not. All right. You move it.

Mr. AMULYADHONE ROY: Sir, I beg to move that at the end of clause 9 of the Bill the following proviso be added, namely:—

> "Provided that no person shall be appointed either as Registrar or to assist the Registrar except after consultation with and in accordance with the recommendations of the Bengal Public Service Commission".

Mr. President, Sir, clause 9 of the Bill deals with the appointment of the Registrar and other persons to assist him. In the Bill, as it stands now, the power of recruitment will rest with the Provincial Government. We have said, and we repeat to-day, that we do not grudge, we do not object to the power being taken in their hands, but what we want to provide is that in the interest of the Ministry itself some restriction, some limitation should be imposed on that power.

Mr. President, wherever democratic institutions exist and parliamentary system of Government functions, the civil servants are recruited, as far as possible, in a manner free from political or personal influence. Sir, the Dominions of the British Commonwealth, Canada, Australia and South Africa, have established Public Service Commissions which have been entrusted with the duties of administering the Civil Service Act. In America the recruitment of the services is controlled by the Civil Service Commission. Sir, this is the law all over the world. Let us now turn back to the law of our land. The Government of India Act, 1935, as has been rightly pointed out by the Hon'ble Leader of the European Group, clearly lays down that subject to some regulation made by the Secretary of State, the Governor-General and the Governors in their discretion and subject to some limitations imposed in connection with the ratio of appointment to be allocated between the communities and some restrictions put in regard to recruitment for the subordinate police forces, the Public Service Commission *shall* be consulted on all matters relating to methods of recruitment to civil services. The Commission shall be consulted on the principle to be followed in making appointments, promotions or transfers from one service to another, and on the suitability of the candidates for such appointments, promotions or transfers.

Sir, let us now consider the point of view of those who for the time being carry on the administration of the country. If the amendment is carried—and let us hope that it will be carried without any division, without any opposition from the Ministry,—nobody will be benefited to a greater degree than the Ministers themselves. They will be relieved in a large measure of a considerable burden of responsibility and no charge or allegation, however ill-founded or well-founded it may be, will be made against them for promoting their family or personal interest. Sir, frequent demands from the Ministers' political supporters for appointing candidates of their choice will no longer make the life of the Hon'ble Ministers miserable and being free from the routine work of recruitment they will be able to devote their time in attending to calls of more national importance.

Mr. President, I have submitted to you how recruitments are made in other countries. I have pointed out the advantages which will follow in accepting the amendment under discussion. I now crave the indulgence of the honourable members to submit why the Public Service Commission is best considered to act as a brake on the Ministry. While occupying the floor of the House once before, I had occasion to submit that in making appointments in the Co-operative Department the rules of age-limit had been trampled down, the problem of unemployment had been overlooked and the principles of efficiency had been sacrificed by the Hon'ble Minister and I dare say that no other member

of the Bengal Cabinet has been found guilty of these irregularities to the extent to which the Hon'ble Mr. M. B. Mullick has been condemned for nepotism and favouritism. It is on account of Ministers of his type that the Indian Statutory Commission presided over by Sir John Simon had doubts if the Indian Ministers ever realised how seldom a Minister in England had anything to do with the selection or promotion of the personnel in his department. The Council will pardon me if I now enter into some detail.

Sir, one fine morning we found a private tutor of the Hon'ble Minister serving in the Education Department——

Mr. KADER BAKSH: On a point of order, Sir. Is it at all relevant to the subject under discussion? What the Minister has done and whether he has given promotion to some one is an entirely different matter. If he has done anything wrong he may bring a no-confidence motion against the Minister, but in a discussion on an amendment to this Bill, he cannot say these things.

Mr. AMULYADHONE ROY: Sir, I have already submitted that in making appointments in the Co-operative Department, the rules of age-limit have been trampled down. I have said that the problem of unemployment has been disregarded and I am now citing instances to show and convince the honourable members how the Hon'ble Minister has violated all these principles.

Mr. PRESIDENT: I would draw the attention of the honourable member to sub-section (*viii*) of section 12 of the Bengal Legislative Council Procedure Rules which enjoins that a member while speaking may not make a personal charge against any member. You may make your remarks in a general way to show why it is necessary that the appointment should be made in consultation with the Public Service Commission; but this is not the occasion to make any personal charge against the Minister.

Mr. AMULYADHONE ROY: I was referring to the acts done by the Hon'ble Minister in his official capacity. I submit to you for your consideration that whenever an act is done by the Hon'ble Minister—

Mr. PRESIDENT: You will not be in order to make a personal charge. You may in a general way state your reasons why particular appointments should be made through the Public Service Commission; but you are not to make a specific charge against the Hon'ble Minister.

Mr. AMULYADHONE ROY: Thank you, Sir. I note that I should not mention the name of anybody. We know and know it for certain that a clerk serving in the Khulna Collectorate for 7 or 8

years was appointed an Inspector of Co-operative Societies disregarding and wilfully superseding the claims of the best unemployed products of the University——

Mr. PRESIDENT: Will you please now come to your amendment? You should speak on the amendment and confine yourself strictly to it.

Mr. AMULYADHONE ROY: Sir, my complaint is that in the past the Hon'ble Minister violated and disregarded the rules. Therefore, it is necessary that these appointments should be made by the Public Service Commission. This is one of the grounds why I am invoking the aid of the Public Service Commission. I am trying to convince the members of the House by referring to concrete cases——

Mr. PRESIDENT: Reference to concrete cases will not be allowed.

Mr. AMULYADHONE ROY: All right, Sir, I will not again refer to any particular case; but I submit that appointments are made in this department and have been made on promises of matrimonial alliance——

Mr. PRESIDENT: Order, order. Please come to the amendment moved before the House. I hope you will conclude soon.

Mr. AMULYADHONE ROY: I am afraid, Sir, I will take some time.

Mr. PRESIDENT: Order, order. The House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 30th August, 1940.

Members Absent.

The following members were absent from the meeting held on the 29th of August, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.
(2) Mr. Bankim Chandra Dutt.
(3) Mr. Narendra Chandra Datta.
(4) Mr. Kamini Kumar Dutta.
(5) Khan Bahadur Alhadj Khwaja Muhammad Esmail.
(6) Khan Bahadur Syed Muhammad Ghaziul Huq.
(7) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(8) Khan Bahadur M. Abdul Karim.
(9) Maulana Muhammad Akram Khan.
(10) Mr. W. B. G. Laidlaw.
(11) Sir T. Lamb.

B. G. Press—1940-41—7762A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 30th August, 1940, at 2-15 p.m. being the twentieth day of the Second Session, pursuant to section 62(2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Health units.

87. Mr. BIRENDRA KISHORE ROY CHOUDHURY: (a) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state if it is in the contemplation of the Government to organise new health units in this Province and to establish new health organisations in such units?

(b) If so, will he please state the areas in which the establishment of such units has been decided upon?

(c) Will he further state the differences in organisation between the contemplated health units and those which already exist?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, the Minister-in-charge of the Public Health and Local Self-Government Department): (a) A scheme for reorganisation of rural public health services is under the consideration of Government.

(b) It is proposed to introduce the scheme in the following seven subdivisions of seven districts as an experimental measure:—

Dacca—Manikganj subdivision.

Mymensingh—Sadar subdivision.

Faridpur—Goalundo subdivision.

Bakarganj—Sadar subdivision.

Murshidabad—Kandi subdivision.

Jessore—Sadar subdivision.

Rangpur—Sadar subdivision.

(c) The present skeleton rural public health organisation provides for a rural health unit under a Sanitary Inspector with one health assistant for each thana for purely preventive measures. Under the

proposed scheme it is contemplated to constitute for an area covering two unions a rural health unit in charge of a medical officer of health specially trained in public health work with one health assistant for each union and a *dai*. It is also proposed to erect a treatment centre between two unions with two or more subsidiary centres for school hygiene and other work, thus combining preventive and curative work. The proposals provide for the following objectives:—

(1) Combination of preventive and curative medical work.

(2) School hygiene work and medical relief to school children.

(3) Intensive health propaganda and publicity.

(4) Health education of school children.

(5) Close co-operation with other departments such as Irrigation, Agriculture, Education, Rural Reconstruction, etc., in relation to public health activities.

Details are now being examined by the Director of Public Health in consultation with the Chairmen, District Engineers and the District Health Officers of the District Boards concerned.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether it is still in the contemplation stage or as a matter of fact the scheme has been actually introduced in these subdivisions arising out of (*b*)?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not think they have been actually introduced yet.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Is the Hon'ble Minister aware of the fact that in the district of Mymensingh malaria has increased alarmingly. There are cases of fatal malignant malaria and steps may be taken very early.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government are trying to expedite the scheme as much as possible, but it does not depend entirely on Government. As my honourable friend will realise, it requires the co-operation of District Boards and the scheme requires careful consideration before Government can undertake such a big financial liability.

Mr. LALIT CHANDRA DAS: Arising out of (*c*), will the *dai* referred to be a trained *dai*?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Most certainly.

Mr. LALIT CHANDRA DAS: Arising out of (*a*), what is the estimated cost of the scheme referred to?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, so far as I remember the ultimate cost amounts to something like 65 lakhs annually. As regards these subdivisions, I do not exactly remember—probably about Rs. 7 lakhs.

Mr. LALIT CHANDRA DAS: When the scheme is still in the contemplation stage will it be possible for Government to extend the scheme to some other district?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, as a matter of fact, Government are very anxious to extend the scheme to other districts. But it all depends upon the co-operation they receive from the District Boards. Some of the District Boards have adopted resolutions requesting Government to extend the scheme to certain subdivisions in their districts, but other districts have not done so.

Mr. LALIT CHANDRA DAS: May I take it that the Chairmen of the District Boards in the Chittagong Division actually requested Government to include some of the subdivisions within the scheme?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Not the Chairmen but the District Boards adopted resolutions to that effect.

Mr. LALIT CHANDRA DAS: Will Government give favourable consideration to that resolution?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes; if the District Boards come forward to co-operate in this scheme, Government will certainly take into consideration their requests.

Maulvi ABUL QUASEM: May I enquire what considerations have guided Government in selecting these particular districts and subdivisions?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As regards subdivisions, it depends on the District Boards and naturally the subdivisions which are more malarious have been selected. As regards districts only, those districts have been selected the District Boards of which have adopted resolutions to co-operate with Government in this scheme.

Maulvi ABUL QUASEM: May I enquire, Sir, if the District Board of Khulna was consulted in this behalf?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I ask for notice.

Maulvi ABUL QUASEM: May I enquire if the Hon'ble Minister is aware that the Satkhira subdivision in the district of Khulna is a notoriously malarious place and that in some parts of that subdivision malaria this year is very virulent?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is so, Sir.

Maulvi ABUL QUASEM: Will the Hon'ble Minister please see that something is done to alleviate the miseries of the people on account of the ravages of malaria in that subdivision?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is a general question. Sir, may I have your ruling if this supplementary question arises out of this question?

Mr. PRESIDENT: That is not strictly a supplementary question on this question.

Cases filed in Noakhali under the Bengal Agricultural Debtors Act.

88. Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) the amount of rent and cesses including decree for arrears of rent in respect of which applications under section 8 of Bengal Agricultural Debtors Act have been made from the date of the establishment of the Debt Settlement Boards up to the 31st December, 1939, in the district of Noakhali;

(*b*) the amount for which awards have been given within the aforesaid period and the amount realised up to 30th June, 1940, on the strength of these awards; and

(*c*) the number of cases of rents and cesses pending before the Debt Settlement Board for over one, two or three years respectively and the amounts involved in each of those three groups?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): The applications involving debts for arrears of rents and cesses are not separately filed from other debts and under the Act, a debtor has to include all his debts in the application. It is therefore difficult to find out the amounts of such debts and I regret the collection

of the information asked for will involve an unduly large expenditure of time and labour which will not be commensurate with the advantages sought to be obtained.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Arising out of (*c*), is the Hon'ble Minister aware that a large number of cases of rents and cesses is pending before the Debt Settlement Boards?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I had occasion in the past to submit to the House that when the boards started work the progress must be very slow, but as they go on the progress becomes quicker. In point of fact, so far as arrears of rents are concerned, I have issued distinct instructions to the Collectors and to the various officers in charge of this work to see that cases relating to arrears of rents are disposed of as quickly as possible. We have also issued instructions to take the question of arrears of rent separately from other questions so that there may not be any difficulty for the tenant-debtors to know the amount of rents that they have to pay so far as that particular debt is concerned.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be kind enough to inform us whether he has made any enquiry as to whether the instructions given to the Collectors of the districts have been followed by them or not?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, the other day I replied to a similar question put by my honourable friend Mr. Nur Ahmed about Chittagong where I stated that on the report of the Collector of that district it appeared that the instructions were being strictly followed.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister kindly consider the feasibility of getting returns of the number of cases regarding rents and cesses pending and disposed of in the districts?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, we have now got a system of having returns twice a year—one towards the end of June and another towards the end of December or rather early in January. If honourable members are anxious we can certainly put forward a statement to show with reference to those returns the amount of progress that the boards have done in any district.

Khan Bahadur ATAUR RAHMAN: Sir, what I meant was that the returns of the cases regarding arrears of rents and cesses should be shown separately. Will the Hon'ble Minister consider the feasibility of showing that separately?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have given my answer. If the honourable member desires, we will certainly look into the matter once again.

Mr. RANAJIT PAL CHAUDHURI: Is the Hon'ble Minister aware that the Debt Settlement Boards in the Sadar subdivision of Nadia are functioning very slowly?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, the boards in the district of Nadia were established only a year ago, and as I have just submitted, it is not unnatural that the progress has been slow.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Arising out of (*d*), is the Hon'ble Minister aware that of the amount for which the awards have been given very little has been realised?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: If my honourable friend be good enough to look to the provisions of the Act, he will be pleased to find that we do not undertake any responsibility for the realisation of the amount awarded and as I had occasion to mention some time back the remedy lay in the hands of the creditors themselves when they could go to a certificate officer under section 28 for an application for certificate but the figures showed that such cases have been very very small.

Mr. RANAJIT PAL CHAUDHURI: Since it has been brought to the notice of the Hon'ble Minister, will he be good enough to look into the files of the Debt Settlement Boards of the Sadar subdivision of Nadia district and expedite the cases where necessary?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I will convey this to the Collector of Nadia to see that these cases are not delayed.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Is the Hon'ble Minister aware of the fact that it is due to the deliberate dilatoriness on the part of the members of the boards who for some ulterior objects cause the delay in the settlements?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am not aware of any such thing; on the contrary, if I may place before the House the reports I have got, it will show that it is on account of the dilatoriness on the part of the landlords and their officers that the cases have been hung up for a very long time.

NON-OFFICIAL RESOLUTIONS.

One crore of rupees for expansion of primary education.

Mr. PRESIDENT: The House will now resume further discussion on the following resolution which was moved by Mr. Nur Ahmed on the 16th August, 1940:—

"This Council is of opinion that an additional sum of one crore of rupees be set apart by the Government of Bengal in the course of 5 years in the budget estimate of successive years for the expansion and improvement of primary education in Bengal."

Mr. NUR AHMED: Mr. President, Sir, the other day I was briefly stating the causes of the slow progress of primary education in Bengal. I was showing by facts and figures that only one-third out of about 1 lakh villages have got primary schools and two-thirds have no schools whatever. That is one of the causes why primary education was spreading so slowly in Bengal, and during the last 15 years it is very doubtful whether it has spread at all. To-day after 200 years of a civilised rule, the number of illiterates is larger in Bengal that what it was 200 years before. Another cause of the slow progress is the stagnation in the lower classes. It will appear from facts that I am quoting from the latest report published by the Education Department in 1937 that out of 6,06,550 pupils reading in primary schools, only 10,640 girls and 1,21,208 boys were in top classes, that is in class IV. Sir, in 1937 out of 26,65,506 pupils reading in primary schools, only 10,640 girls and 1,212,08 boys were in top classes. It will be apparent from another fact that during the course of the last five years from 1932 to 1937, the percentage of education had advanced from 13 to 14 in Bengal, while it had advanced from 26 to 33 in Madras, from 40 to 46 in Bombay, from 30 to 46 in Central Provinces, 32 to 40 in Assam and from 20 to 27 in India as a whole. This awfully slow progress of primary education in Bengal is caused by the scarcity of trained teachers and also the miserably low pay of trained teachers. It is an admitted fact that merely the supply of trained teachers without at the same time giving something more in the way of salary than the miserable pittance which the teachers at present enjoy, will not be effective.

The percentage of trained teachers in Bengal is the lowest as compared with other provinces. The percentage of trained teachers in Bengal primary schools for boys was 28·5 in 1937 against that of 48·1 in Madras, 49 in Bombay, 76 in the Punjab and 72 in the Central Provinces. Again, Sir, the percentage of trained teachers in girls schools in 1937 was still worse. It was 13 per cent. in Bengal as

against 85 per cent. in Madras, 75 per cent. in Orissa, 56 per cent. in Assam, 54 per cent. in the Punjab, 52 per cent. in Bombay and 42 per cent. in Sind.

As regards the position of single teacher girls-schools in Bengal as compared with other provinces, I may say that the position is precarious, viz., in 1937, there were 13,663 one-teacher primary schools for girls in Bengal in which 4,06,126 girls were reading. Sir, it is an admitted fact that one teacher girls-schools are incapable of producing any sort of literacy and it is useless to have them. Thus, it will be seen that in Bengal the wastage is appalling, as large as 85 per cent. in the case of boys and 96 per cent. in the case of girls. A great deal of money that is being spent at present on primary education is being simply wasted and it brings no return. So, Sir, it is imperative that something should be done to improve the condition of the primary education in the province.

Now, Sir, if you compare the percentage of boys reading in class I and class IV in Bengal with that of the other provinces, its miserable condition will be more apparent. In Madras it is 100 to 32; in Bombay it is 100 to 46; in United Provinces it is 100 to 28; in Behar it is 100 to 33; in the Central Provinces it is 100 to 40; in the case of Bengal it is a miserable percentage of 100 to 15.

These are figures about boys.

Now, Sir, if we take the figures for girls reading in primary schools, the percentage is still more miserable. The percentage of girls reading in class I and class IV in Bengal as compared to other provinces is: 100 to 18·4 in Madras; in the case of Bombay 100 to 29·5; in the case of Punjab 100 to 19; in the case of Central Provinces 100 to 21; in the case of Assam 100 to 22; in the case of Bengal it is only 100 to 18·4 So, it will be seen from these figures that the number of boys and girls reading in the primary schools in Bengal is miserably low as compared with those of the other provinces, and it is high time that some effective steps should be taken to improve the condition of the people by introducing free and compulsory primary education.

Then, Sir, if you take the figure of cost of education of pupils per head it will be seen that in Madras it is 8·20; in Bombay it is 15·55; in the Punjab it is 10·78; in the Central Provinces it is 11·03; in Sind it is 20; and in Bengal it is 3·4. Thus, it will be evident from these figures that Bengal is the only province in the whole of India which is lagging far behind the mark as compared with other provinces so far as primary education is concerned. Primary Education is almost free in almost all other provinces. To make the matter worse, during the last quinquennium the expenditure per school and per scholar in Bengal has gone down while it has increased in the other provinces. During the years 1931-32 to 1937, though the amount of expenditure on

primary education in Bengal rose from Rs. 66,95,818 to Rs. 67,10,235, the expenditure from provincial revenues increased only by Rs. 663, Government contributing only Rs. 22,25,780 from the provincial revenues. In the case of girls schools, though the expenditure is increased to Rs. 15,92,965, the amount contributed from the provincial revenue actually increased by Rs. 6,709. This is really most disappointing. So, I hope the House will accept my resolution and agree to set apart Rs. 1 crore in the course of five years for the expansion and improvement of primary education in Bengal.

With these words, I commend my motion to the acceptance of the House.

Mr. DHIRENDRA LAL BARUA: Sir, I rise to support the resolution sponsored by my honourable friend Mr. Nur Ahmed and in doing so I may point out that the expansion and improvement of primary education is already one of the outstanding commitments on the part of the Government of Bengal. All that remains is to find ways and means for giving a further effect to the scheme. Here is a very modest demand for the provision of an additional sum of one crore in the budget estimate of five successive years. There can be no denying the fact that the money spent in all civilised countries of to-day on primary education per head out of the total revenue income is far more than what has hitherto been done here in Bengal. We are not asking the Government to make full amends all at once for what has not been done in the long past. The proposal is indeed to wisely adopt a quinquennial plan. Sir, is not the demand made after all very very small in comparison with the vast population of the province? I know that it is easy for the Government to excuse themselves on the oft-repeated plea of shortage of funds, specially now when every farthing is to be saved for successful prosecution of the present war. If that be the excuse why, I should ask, only primary education alone should be denied its legitimate dues? Whether Bengal is the richest or the poorest province is an academic question which I need not discuss. But those who are in the know of things will admit that Bengal has large sources of income which it is not allowed to utilise for its own advancement, even though it is of vital importance.

I may, therefore, reasonably hope that the House will readily accept the proposal as it is.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have no hesitation in informing the House that Government have got every sympathy with the spirit that underlies this resolution. But there are certain practical difficulties in their way of accepting the resolution as it stands. I feel that it is my duty to explain to the House the policy which Government have decided to follow, with regard to the

introduction of free and compulsory primary education in this province. The matter has been engaging the very serious attention of the Department of Education in particular and of Government as a whole. But as my honourable friends realise, the question depends not merely on funds but also on a satisfactory solution of the problem of supply of trained teachers. Sir, assuming that 80 per cent. of the boys and girls of school-going age will go to school, the total number of children that would be of school-going age in 1941 will be 4 lakhs 25 thousand; and in 1951 4 lakhs 44 thousand. The number of teachers that will be necessary to train them will be 1 lakh 42 thousand in 1941 and 1 lakh 48 thousand in 1951. So, the numbers themselves show that Government must have had at their disposal a very large number of trained teachers, because not more than 30 students can be placed under one teacher, and on that basis roughly 1 lakh 50 thousand trained teachers are necessary before full effect can be given to the scheme. The amount of pay that has been fixed by Government is Rs. 16 for Head Masters and Rs. 14 and Rs. 12 for trained teachers and for other teachers Rs. 10. Now, this is probably the lowest in comparison with the salary that has been fixed for teachers in the Punjab or under the Wardah scheme which is certainly an economical scheme, and also in some of the other provinces. But my honourable friends should also remember that however much other provinces might be spending on education, no other province in spite of its better financial position has been able up till now to introduce free primary education. Now, the Government of Bengal have been attempting to do so and they have introduced the Primary Education Act of 1930 in as many as 13 districts, that is, cesses are being realised in 13 districts. According to this scheme as much as 4 crores 44 lakhs of rupees would be necessary in 1951 to give full effect to the whole scheme. Sir, the Government of Bengal will have to contribute as much as one crore and 33 lakhs in addition to the cess that would be available from the different districts, to meet the full expenditure. I would put it to the honourable members whether it is practicable for Government to give any assurance that they are in a position to give effect to free compulsory primary education throughout the province without mature consideration or without adequate amount at their disposal. (Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Government are already pledged to do it.) Yes, Government are pledged and Government stand pledged to it. They do not want to resile from the position they had taken up, but it requires time. Government in fact had committed themselves to an additional expenditure of 35 lakhs in the next 5 years' time. In fact, in the current year's budget, there is a provision for additional 10 lakhs from the revenues of Government towards primary education and during the next three years every year an additional amount of 5 lakhs would be provided so that by 1946 the full 35 lakhs additional would be spent from Government revenues in addition to the amount of cess that would be available

for expenditure on primary education. So, Government have already taken up the scheme and are doing their best to bring the scheme into operation in the different districts. But the difficulties are enormous and I hope my honourable friends will realise it and appreciate the attempt that is being made to give effect to the scheme that has been drawn up by Government in consultation with their experts.

It is not possible for me at this stage to commit Government to anything further than what they have already accepted and with these words, I accept the motion.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I have listened with——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I was expecting that the honourable member would get up before me and give me a chance to reply; because I would not get a chance of replying to the arguments that he will be advancing.

Mr. PRESIDENT: As a matter of fact, I waited to see if any honourable members were rising. But under the rules I cannot preclude any honourable member from speaking. The Hon'ble Minister will, however, get his chance of replying.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I have listened with some attention to what has just fallen from the lips of the Hon'ble Leader of the House. He has said that on a big matter like this, Government have provided for grants on a graduated scale rising up to 35 lakhs in five years. It is an insignificant dose for a stupendous task. I submit, Sir, it is treating a very big disease with a small dose on the homœpathic principle. If the Hon'ble Minister believes that minute doses of medicine applied on the homœopathic principle will cure a big disease, they have certainly begun very well. But I believe the disease is very widespread and it requires not homœopathic doses but large scale allopathic doses.

With these words, I support the original resolution.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have explained the Government policy and I quite appreciate the anxiety of my honourable friends to accept this resolution. Government sympathize with the principle and are anxious to accept the principle underlying the resolution.

Mr. NUR AHMED: Mr. President, Sir, in reply to the debate, I have to submit a few words. It has been stated on behalf of Government that Government are already pledged for spreading primary education. From the wordings of the resolution, it will appear that I want this additional sum to be placed for the improvement and expansion of primary education. I have stated that about 70 lakhs would be spent yearly on primary education in Bengal and that about 90 per cent. of the amount which is now spent is being wasted. So, it is necessary that the present state of things should be improved. Government have promised to put into operation the provisions of the Primary Education Act of 1930. It is already in operation in 12 districts and will be extended to other districts. Sir, a Committee was appointed by Government to consider this problem of primary education. The Committee had drawn up a scheme and asked the Government to provide one crore of rupees within a course of 10 years. In the resolution which I have very carefully worded, I have said in course of 5 years. Sir, I know that it is war time and it will be very difficult for Government to spend money now. But I think at the end of five years, Government will be in a position to spend some money on this very essential purpose. Sir, primary education is everywhere the concern of the State and it is a burning cry of every citizen that it should be expanded and improved without further delay. There is, of course, a question of fund. It is estimated that for a full-fledged scheme more than four crores of rupees will be required. Out of this four crores, the people of Bengal will have to bear 2 crores 14 lakhs and the remainder will be met from the education cess and by Government. It is a very vital thing and I appeal to the House in the name of humanity, in the name of literacy, and in the name of enlightenment that the resolution should be accepted. There is no time to lose and every patriotic son of Bengal should try to improve this pitiable state of things. We cannot bear the sight of so many human beings, who are our own brothers, grovelling in the darkness of ignorance and illiteracy while we are enjoying the amenities of M.L.C.'s lives here.

With this appeal, Sir, I again commend my resolution to acceptance of the House.

Mr. PRESIDENT: Section 42(*3*) of the Bengal Legislative Council Procedure Rules provides, "the Minister to whose department the matter relates shall have the right of speaking after the mover, whether he has previously spoken in the debate or not". So, Sir Bijoy may speak now if he likes.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have nothing more to add to what I have already said.

Mr. PRESIDENT: The question before the House is the resolution of Mr. Nur Ahmed: that this Council is of opinion that an additional sum of one crore of rupees be set apart by the Government of Bengal in the course of 5 years in the budget estimate of successive years for the expansion and improvement of primary education in Bengal.

(The resolution was agreed to.)

Mr. HUMAYUN KABIR: Sir, the notice of my resolution was sent before Government had announced their policy with regard to the Holwell Monument. But since steps have already been taken in this direction, I do not want to press this motion.

Annual grant of five lakhs of rupees for spread of education amongst Scheduled Castes.

Mr. AMULYADHONE ROY: Sir, I beg to move that this Council is of opinion that a recurring annual grant of five lakhs of rupees be granted by the Government of Bengal for the spread of education amongst the Scheduled Castes of the province.

Sir, the resolution I have moved just now relates to a matter which, I hope, will receive the support of all sections of the House. Let me hope that it will be carried without any division. Sir, since the 1st of April, 1937, the day on which the present Council of Ministers came to office, the Government have not been prompted by any genuine desire to promote the educational advancement of the members of my community which has been used as a ladder by some members of the Treasury Bench to rise up to that elevated seat. Sir, 95 per cent. of the tillers of the soil without any elementary knowledge of education are still tilling the lands in the same manner in which they were used to do before the introduction of the Provincial Autonomy. Sir, the Ministry has failed to bring about any change in their condition in this respect. The present Ministry, when they presented the budget for the first time, provided only a paltry sum of Rs. 30,000 for the education of members of the Scheduled Castes and when an enquiry was made we were told by a member of the Cabinet that this meagre allotment was due to the shutting up of the lips of those who claim to represent our community in the Council of Ministers. I am sorry, Sir, to find that the two representatives of the Scheduled Castes community shine only as ornamental figures in the Cabinet. Then, Sir, when the Independent Scheduled Caste Party moved a cut motion in the Lower House, the Ministry, under the pressure of the Opposition and being afraid of the subsequent no-confidence motion were compelled to provide a sum of Rs. 5 lakhs for the education of Scheduled Castes.

But unfortunately in the absence of any scheme the amount was deposited with the Administrator-General of the province. So, Sir, the Ministry is discredited to the extent that they have not yet been able to spend that amount in the absence of any scheme.

Sir, the Poona Pact which was born at Yerveda by the life-blood of Mahatma Gandhi provides that adequate sums should be set apart for the education of our community. But up till now we do not find any indication on the part of the Government to fulfil the terms of that sacred agreement. This is a resolution which is not at all communal in character and the Government of the day is bound to educate the children of the soil. It is, I should say, the primary duty of the Government to educate the children of the soil. I not only submit that a sum of Rs. 5 lakhs should be granted, but a scheme—I mean a comprehensive scheme—should be prepared so that this Rs. 5 lakhs may be successfully spent for the benefit of our community. I have not tabled this resolution in order to censure the Ministry, but I have tabled it with the hope that they will find their way to accept it without any opposition.

With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Resolution moved that:

"This Council is of opinion that a recurring annual grant of five lakhs of rupees be granted by the Government of Bengal for the spread of education amongst the Scheduled Castes of the province."

Mr. KADER BAKSH: Mr. President, Sir, I have got every sympathy with the resolution which has been moved by my friend, Mr. Amulyadhone Roy. I come from the district of Dinajpur where there are a very large number of Scheduled Caste people who go without any education whatsoever. Government have said that they have very great sympathy for these people but we find that for these depressed and oppressed people no care is taken; we find that no provision has been made for their education though we have repeatedly put forward our demands for that purpose. Sir, the Vice-President of the North Bengal Scheduled Caste people, Babu Gobinda Chandra Roy, has started a number of schools at Scheduled Caste centres to give facilities for the education of their children and has also repeatedly put forward demands for some sort of grants for their schools, both capital and recurring. With regard to the capital grant, I must humbly submit that nothing definite has been done, though some of the members belonging to the Scheduled Castes have paid large contributions for the erection of school buildings and for the purchase of furniture. In spite of

such contributions, the accommodation for the large number of pupils that could be provided for is not sufficient, as no grant for that purpose has been forthcoming from Government.

Sir, if we want to improve the condition of the members of the Scheduled Castes, we must give them all scope for their uplift and their education in every possible way. I think the demand of Rs. 5 lakhs made in this resolution is a very modest one compared to the pressing educational needs of the most backward community of the province. Therefore, knowing fully well the backward condition of these people in my district, I wholeheartedly support the resolution of my friend, Mr. Amulyadhone Roy.

Mr. HUMAYUN KABIR: Sir, I have every sympathy with this resolution and I wholeheartedly support it. If I may be permitted, I should like to move a short-notice amendment to it only by inserting two words, viz., "at least" after the words "grant of" in the first line of my friend's resolution, so that it will read thus:

> "This Council is of opinion that a recurring annual grant of at least five lakhs of rupees be granted by the Government of Bengal for the spread of education amongst the Scheduled Castes of the province."

I am sure that an amendment of this type will not be objected to by the mover of the resolution and I also hope that there will be no objection from any other section of the House, especially the speech which we have just listened from Mr. Kader Baksh lends additional support to it——

Mr. PRESIDENT: Order, order, I shall accept the short-notice amendment only if there is no objection to it. Is there any objection to the short-notice amendment of Mr. Humayun Kabir?

Mr. HAMIDUL HUQ CHOWDHURY: Yes, Sir, I have objection.

Mr. PRESIDENT: As there is objection, I do not accept it.

Mr. HUMAYUN KABIR: In that case, I do not move it as an amendment but I still express my opinion that there should be some such provision in the Education Budget of the coming year.

Sir, about two or three years ago, a provision of Rs. 5 lakhs was made in the budget. But the whole amount was not spent though a certain part of it was utilised for the spread of education among the Scheduled Castes people of this province. Sir, it is a question which concerns not only the members of the Scheduled Castes but it concerns all of us. I regard it to be a question which is of vital importance to the province of Bengal as a whole. There is a common saying that the

weakest link in a chain is the measure of its strength and therefore if to-day the members of the Scheduled Castes suffer from disabilities so far as educational facilities are concerned, these disabilities will not only impose hardships upon them but they will also stand in the way of the progress of the province as a whole. Therefore, it is to the interest of the members of every community of this province that a special provision should be made for the members of the Scheduled Castes in order to bring them up to the same standard as has been achieved by the other communities. If that is not done and if there is any section of the people in Bengal which remains educationally backward and weak, it will certainly retard the progress of the province as a whole. The progress of the province will be prevented by such contingency.

Sir, I am glad to find that my friend Mr. Kader Baksh of the Coalition Party is agreeable to the resolution. I hope Government which have to a certain extent committed itself to giving special facilities for the progress of education of the members of the Scheduled Castes will take this hint from the Council and make it a very definite part of their educational policy from year to year.

Mr. KAMINI KUMAR DUTTA: Sir, I rise to accord full support to the resolution moved by my friend Mr. Amulyadhone Roy. The very fact that in the Constitution itself a section of the Hindu community has been created into a separate electorate under the nomenclature of Scheduled Castes is a clear indication of the backwardness of that section of the community. Certainly we do not expect that it will be a permanent feature of the constitution. We do look forward to a bright future when those belonging to this particular electorate, called the Scheduled Castes, will be fully equipped and stand on a par with other sections of the public and will also ask for a common electorate instead of being relegated to a separate electorate for the Scheduled Castes. If we really want a bright future for this province, it is necessary that a sufficient amount of grant should be made for giving educational facilities to those belonging to the Scheduled Castes. Unless they are fully educated, unless they are fully equipped to stand on the same footing with other members of the public, we cannot expect the country to advance. So, to remove this backwardness of that section of the Hindu community which is called the Scheduled Castes, ample provision ought to be made to give them educational facilities.

Mr. JATINDRA MOHAN SEN: Sir, I have great pleasure in supporting the resolution which has been so ably moved by my friend Mr. Amulyadhone Roy. As a member of the caste Hindu community, I fully endorse the views which are contained in this resolution. It is often said that the caste Hindus are not sympathetic towards improvement of the condition of the members of the Scheduled Caste Hindus.

That is not a true statement of fact. On the contrary, the caste Hindus as a whole desire that all Hindus, whether they are depressed or suppressed, should come up to the same level as the caste Hindus so that they would be able to contribute equally to the improvement of the province as a whole. Now, the position of the caste Hindus, rather the attitude of the caste Hindus, if I may be permitted to say so, has been always that adequate educational facilities should be given to the Scheduled Caste Hindus and other depressed class population of Bengal instead of giving artificial preferments to them by giving appointments and things of that sort. That does not conduce to the real improvement of the depressed class community or of the condition of the province. What we really desire is that proper educational facilities should be given to them, that their attainments to the full stature as members of the entire Hindu community should be speeded up so that they may take their rightful place as important members of the great Hindu community. In that view, it is desirable that more educational facilities should be given to them and this should be done in a manner and to the extent that they would be in a position to take their rightful place as early as possible. The learned mover of the resolution has said that Rs. 5 lakhs may be allotted yearly for educational purposes among the Scheduled Caste Hindus. I do not consider that the sum will be quite adequate to improve the condition of the Scheduled Caste people within a very short time. The Census report would show that so far as the great Hindu community is concerned, the Scheduled Caste people form a great majority and in order to bring education home to them it would be necessary to spend a much larger sum than what has been proposed in the resolution.

In this view, I fully support the resolution which has been moved by my friend Mr. Amulyadhone Roy.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I may submit at the outset that Government yield to none in their anxiety for offering adequate facilities to the Scheduled Castes community for the advancement of their education but I am afraid I cannot accept the resolution as it stands, because it seeks to commit Government to a recurring expenditure of Rs. 5 lakhs annually. Sir, the honourable mover of this resolution has played the part of a veritable Rip Van Winkle in the House. He slept long, being for nearly three years out of political life having lost in the General Election of 1937 and came to this House after having undergone a thorough transformation in his political outlook——

Mr. AMULYADHONE ROY: Sir, is it relevant? What connection the statements which have been made by the Hon'ble Minister have with the resolution under discussion?

Mr. PRESIDENT: It is desirable to avoid personal reflections, as far as possible.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: All right, Sir, if that hurts my friend I would avoid it.

Mr. AMULYADHONE ROY: It did not hurt me at all. I am quite prepared to defend myself.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Well, Sir, my honourable friend now urges that Government should make an annual grant of Rs. 5 lakhs. I just wanted to remind the honourable mover that Government has already taken the wind out of his sails, because they provided as much as Rs. 5 lakhs as a capital grant in the budget of 1937-38. They appointed a Scheduled Caste Education Committee consisting of several representatives of that community with Dr. Jenkins as Chairman. Sir, I hope the House will realise that even if one crore of rupees is available, it is not possible for Government or for any one else for the matter of that to spend that amount profitably unless suitable schemes are framed and Government know really what schemes are going to benefit the Scheduled Castes communities in the solution of their educational problems. Now, this Committee has done its work very diligently and has submitted valuable recommendations to Government. Government have already exhausted the whole of the capital grant. The money has been spent in providing scholarships, in putting up special hostels for the Scheduled Castes, in establishing schools and on such other subjects as are likely to benefit the Scheduled Castes community. Sir, my honourable friend should remember that this amount is meant for giving special facilities to the students of the Scheduled Castes. They are entitled to have all the facilities which are open to students of any other community in this province so that out of the large amount that the province may spend on education, the Scheduled Castes can have their legitimate share. But realising that the community is specially backward in education and that their advancement in matters of education is really essential for the advancement of the Bengalee community as a whole, Government have made special provisions for scholarships and other facilities of the students of the Scheduled Castes. So, the Government have not failed to discharge their duties as my honourable friend alleged nor did they provide money merely because somebody threatened Government with something. They did it most wilfully and they did it because Government considered it was their duty to do so. Sir, it will be futile to accept this resolution or to provide any particular amount annually in the budget until the schemes recommended by the Special Committee have been examined and accepted by Government. Government will not

hesitate to provide even larger sums if necessary, not to speak of Rs. 5 lakhs, because I may repeat that they do realise as much as the mover of the resolution or any one else in this House or outside this House, that the advancement of the Scheduled Castes community must be concomitant with the advancement of the rest of the society in Bengal.

I think in this view of the matter, the honourable member will agree to withdraw his resolution. If he does not do that, I will request the House to reject it.

Mr. AMULYADHONE ROY: Sir, the non-official members have placed me under a deep debt of gratitude for their kind support. My honourable friend Rai Sahib Jatindra Mohan Sen has said that allegations are made that the caste Hindus are unsympathetic to the Scheduled Castes. Sir, time was when the state of affairs of the country might have been such but that time has now changed to a considerable degree and we do not think that they still hold the same view as they used to do before. Sir, what has astonished me are the statements of Sir Bijoy Prasad Singh Roy. I do not know that my political complexion has got anything to do with the resolution which I have moved in this House. I tell this House in most clear terms that although defeated in the last General Elections, the votes I secured were the largest in number in proportion to population and voting strength that was polled by all of the 30 Scheduled Caste members in the Legislative Assembly put together with the solitary exception of the member representing Dacca. I have not been abandoned by the Scheduled Castes community as Sir Bijoy Prasad Singh Roy has been abandoned by the Hindu community. I boldly say that although I was adopted as a Congress candidate in the last election held for the Upper House, I owe my election to this House to the vote of the M.L.A.'s belonging to the Independent Scheduled Caste Party. Therefore, I am quite competent to speak on behalf of the Scheduled Castes and not like Sir Bijoy Prasad Singh Roy——

Mr. PRESIDENT: Order, order. I expect the honourable member will hold by the principle he enunciated only a few minutes before.

Mr. AMULYADHONE ROY: With due regard to you, Sir, I bow to your ruling as I have the highest respect and admiration for the Chair.

However, Sir, I shall not repeat what I have said with regard to the Hon'ble Minister, but I hope he will take this lesson from me for the future.

Sir, the Hon'ble Minister has not said anything with regard to the demand of Rs. 5 lakhs which I have made in this House. I did not table this resolution in order to give an opportunity to Sir Bijoy Prasad

Singh Roy to go into the history of the grant of Rs. 5 lakhs. What I wanted was that he will agree to this annual grant of Rs. 5 lakhs. But, unfortunately, I find that even in a matter which does not affect anybody, Government of the day are unwilling to agree with the popular views.

With these few words, Sir, I hope that my resolution——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Withdraw it.

Mr. AMULYADHONE ROY: Well, I am the last person to withdraw this resolution which concerns the welfare of the country at large and against which the present Ministry is determined. So, Sir, I hope that my resolution will be accepted by the House.

Mr. PRESIDENT: The question before the House is: that this Council is of opinion that a recurring annual grant of five lakhs of rupees be granted by the Government of Bengal for the spread of education amongst the Scheduled Castes of the province.

A division being demanded, it was taken with the following result:—

AYES—13.

Bose, Rai Bahadur Manmatha Nath.
Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Pal Choudhury, Mr. Ranajit.
Ray, Rai Sahib Jogendra Nath.
Ray, Mr. Nagendra Narayan.
Roy, Mr. Amulyadhone.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—24.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Barua, Mr. Dhirendra Lal.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
D'Rozario, Mrs. K.
Ferguson, Mr. R. W. N.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Lamb, Sir T.
Momin, Begum Hamida.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ross, Mr. J. B.
Roy, Rai Bahadur Radhica Bhusan.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, The Hon'ble Sir Bijoy Prasad.
Stark, Mr. A. F.
Talukdar, Dr. Kasiruddin.

Mr. PRESIDENT: Order, order. The House has divided. For the resolution—13; against the resolution—24. The resolution is, therefore, negatived.

Ship-building Industry in Bengal.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I beg to move that this Council is of opinion that the Government of Bengal should move the Government of India to establish as early as possible a ship-building industry in Bengal, and also to encourage it by the grant of construction bounties and by advancing cheap loans and assisting the acquisition of suitable sites and by guaranteeing all Government and Port Trust works in connection with shipping to associations of competent Indians formed into companies for the building of ships in Bengal.

Sir, any one who has read the "History of the Indian Shipping and Maritime Activities" by our esteemed colleague, Dr. Radha Kumud Mookerji, knows that there was a time when the maritime districts of Bengal were humming with activities in building ships. The sea-going vessels constructed in those places used to go to the four corners of the globe and carried trade and commerce to distant countries. But with the advent of the Britishers, the industry gradually died away as a result of unfair competition and want of proper encouragement and patronage from the proper authorities. We are seeing there the same country-made boats while ships of British origin are carrying on our coastal and foreign trade with little or no competition except from the Scindia Steam Navigation Company. It is high time that the Government policy with regard to ship-building were changed. I have no doubt that Government now realises the folly of keeping the Indians ignorant of the art of constructing modern vessels. Merchant ships constructed within India would have enabled her to carry her own trade and to convert them in times like the present into war vessels to defend her own coasts. There is no dearth of Indian sailors who, if given proper training, can compete in skill and bravery with any body of sailors in any part of the world. What are wanted are adequate facilities for building and repairing ships under Indian control with promise of governmental patronage; and what is wanted further is that the Government of India should at least start a couple of model ship-building centres for the whole of India and encourage others to follow suit.

Sir, sixteen years ago, a Director of the Royal Indian Marine presided over the Indian Mercantile Marine Committee in which there was also as member the Consulting Naval Architect of the British Government. They recommended the grant of construction bounties for encouraging ship-building industry in India. They recommended that the Government should aid such enterprises by advancing cheap loans and assisting the acquisition of suitable sites and by guaranteeing all Government and Port Trust work to such a ship-building yard. The Government of India which was more mindful of the shipping interests of Great Britain failed to follow the suggestions. The Government,

however, in its own interests established a Training Ship in Bombay. They say that we will be soon admitted into the orbit of the British Commonwealth of Free Nations, but they will pardon us if we could not understand their mentality when instead of encouraging the development of ship-building industry in India, the British Government even a few months ago during the period of Italy's non-belligerency which was but one step to belligerency, placed orders to have their ships built in Italian shipyards. This they would not have been under the necessity of doing if the Government of India would have followed the advice of the Indian Mercantile Marine Committee sixteen years ago.

Sir, let us take stock of what the Governments of Australia and South Africa are doing in the matter of ship-building industry with whom it is promised we will be put soon on equal footing. The Australian Government in pursuit of a positive ship-building policy are giving bounty for the construction of ships in the Australian yards varying from £10 per ton to £12-10 per ton, and the bounty scheme provides £50,000 a year for assistance. There will thus be soon an Australian Mercantile Marine. Like Australia, South Africa too has launched a ship-building industry and they have started carrying into execution plans for building ships of tonnage varying from 5,000 to 8,000 tons. Thus, these two countries have entered into the career of great ship-building nations.

It will interest our friends opposite to hear that a few months ago, in pursuance of a scheme for vast new shipyards capable of building merchant ships on a large scale, Turkey entrusted their construction in their own shipyard to a British firm at a cost of £2 million. This is one picture, Sir; now let us look to the other. The Supply Department of the Government of India is considering the possibilities of constructing wooden vessels and motor boats for the Indian Navy.

Sir, is India so resourceless that it cannot undertake to start shipyards as in Australia and South Africa and also for the purpose of encouraging Indians to form into companies for ship-building? We, however, know that the High Commissioner for India from out of the workings of enemy ships under his control during the last war earned profits amounting to £38 lakhs in addition to a reserve fund of £1¾ lakhs. He must have been making similar profits also now as many enemy ships have now fallen under his control. Those profits, however, instead of being utilised for the purpose of development of ship-building industry in India was quietly added to the general revenues of the country and spent away for other purposes.

Sir, it may interest the hon'ble members to know that the Supply Department of the Government of India is repenting for its folly and now speak of starting shipyards in India for constructing vessels—a course which should have been adopted years ago, in which case the Government of India in this emergency would have been in possession

of a full-fledged Indian Navy or Mercantile Marine to fight the enemy in the Arabian Sea and in which case they could have released a part of the British Navy to guard the coasts of Great Britain more effectively.

Sir, the Government of India is thinking of Vizagapatam in Madras as a possible shipyard. But I wonder what are the Government of Bengal or the Port Trust authority of Calcutta doing? They should have been on the look-out and urged the case of Bengal for first consideration for the development of a ship-building industry here. Even now it is not perhaps too late and my resolution is just a reminder. A splendid shipyard is possible near about Calcutta. Once established, skilled labour or labour capable of easily being turned skilful will be found in abundance from the neighbourhood and also from the districts of Chittagong, Noakhali and Tippera. A great impetus will then have been given to trade and commerce; the problem of middle-class unemployment will also be very appreciably solved. Sir, the Scindia Steam Navigation Company, a pioneer in shipping industry in India, propose to start a shipyard in Vizagapatam. They propose to start also an aircraft industry at Bangalore with the help and patronage of the Government of India. Once such help and patronage are assured, companies with reputed persons as Directors will spring up in Bengal to start similar industries. But I think the Government of India cannot also absolve itself of its own responsibility to start as a key industry of the nation a couple of model ship-building industries in India, one of them preferably being located in Bengal in or near about Calcutta.

Sir, it is a resolution for which I should have the sympathy of all the members of this House, irrespective of party considerations and I hope my friends opposite will not take it amiss that this resolution has been moved from this side of the House.

With these words, Sir, I commend my resolution to the acceptance of the House.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that the Government of Bengal should move the Government of India to establish as early as possible a ship-building industry in Bengal and also to encourage it by the grant of constructing bounties and by advancing cheap loans and assisting the acquisition of suitable sites and by guaranteeing all Government and Port Trust works in connection with shipping to associations of competent Indians formed into companies for the building of ships in Bengal.

Mr. NUR AHMED: Sir, may I be allowed to move my amendment? I have tabled an amendment to this resolution as the wording of this resolution is not clear.

Mr. LALIT CHANDRA DAS: Sir, I object, because we have got no notice of it.

Mr. PRESIDENT: Order, order. Notice of this amendment was received by this office at 12-10 p.m. to-day. If there is no objection, I may allow it to be moved; otherwise not.

Mr. LALIT CHANDRA DAS: I object, Sir.

Mr. DHIRENDRA LAL BARUA: Sir, I rise to lend my whole-hearted support to the resolution moved by the honourable member, Mr. Lalit Chandra Das. I consider it a move in the right direction. So far as Bengal is concerned, history fully bears testimony to its extensive sea-borne trade in the past which could not have been carried on without sea and ocean-going vessels. The merchant vessels of Bengal plied not only in its large rivers but served as means of commercial and cultural relations with Burma, Ceylon, further India and the Pacific Islands, including Java and Sumatra, not to speak of Sopara, Guzerat and other western countries and ports. Bengal had at least two very important ports in the past, namely, Tamralipti and Harikela. Chittagong as a port rose into importance in the 14th or 15th century and has maintained its position as such to the present day. The ship-building, as is well known, was one of the most flourishing industries of Chittagong up till the middle of the 19th century after which it began to dwindle for want of encouragement and financial assistance from Government. Now time is ripe, I think, for revival of this industry in Bengal for its defence against all possible foreign invasions as well as its economic development. After the significant pronouncement of Mr. Churchill that Hitler may some day appear at the gate of India, can we or should we, sleep over things and leave things to shape for themselves? Denying financial support to indigenous industries and allowing them to die a natural death, the British Government committed a wrong for which they now feel seriously embarrassed in the face of the present terrible danger and will feel more so if further delay is made in strengthening by all possible means the defence of India. I may, however, observe that the resolution presumes as if there are associations of competent Indians in Bengal waiting for Charter and financial aid for the building of ships. There are no such associations in Bengal, as far as I know. Here, the initiative is to be taken from the Government side first. The question of funds should not be pressed in order to turn down the resolution. Funds must be found out by Government to meet the present emergency

and Government must formulate the scheme without expecting it from the mover or supporters of the resolution who are not supposed to be experts in the matter.

With these few observations, I commend the resolution to the honourable members for their unanimous acceptance.

Mr. NUR AHMED: Mr. President, Sir, I rise to support the resolution, but before doing that I would request, with all respect, the honourable mover to clear the wording of his resolution. I gathered from his speech that he wants that the Government of India should encourage in all possible ways the ship-building industry in Bengal, if there is no Indian enterprise launched in Bengal. But from the wording of the resodution itself, I find that he wants the Government of India to establish as early as possible a ship-building industry in Bengal. (Mr. HUMAYUN KABIR: Why not?) I do not say that the Government should not, but I gather from his speech that he wants that Government should give loan at a cheap rate of interest for helping such a national enterprise in Bengal. If he said that Government should establish a ship-building industry, I would have no objection to that, coming as I do from Chittagong which was famous for ship-building from time immemorial. In Chittagong, in our infancy whenever we went by the side of the river *Karnafuli*, we found that it was full of ships so much so that any casual observer from a distance might have taken it to be a shipyard and not a river. But by the enactment of the cruel law which prohibited Indian ships from going out in the open sea, from that time ship-building has died out. During the last war in 1914, when Government again permitted building of ships and allowed Indian ships to go out in the open sea, that industry revived and people began to build ships. But after the war, the law was again enforced and after that ship-building died out. For that reason, Government should be asked to revive that industry which once brought prosperity to Bengal. Bengal was once famous for the ship-building industry and the ships made in Bengal went out to every corner of the world. It is a pity and a very lamentable thing that we are today in Bengal without any ship-building industry and that the Indian companies that there are, do not belong to Bengal.

With these few words, Sir, I wholeheartedly support the resolution of Mr. Lalit Chandra Das.

Khan Bahadur ATAUR RAHMAN: Sir, the friends on the opposite are always apprehensive that we are opposing everything moved by them. They should not get so nervous. Whenever they put forward any reasonable proposal, we always support it. This is a very important resolution which has been moved by our friend Mr. Das, and we are wholeheartedly supporting it, because we know that ships built

in Bengal used to visit all parts of the world. This important flourishing business has been throttled by modern civilisation. In a difficult situation as we are now, unless we are able to build our own ships how we shall defend ourselves? Where shall we get our Navy? This industry, if it is started in Bengal, will give employment to the children of the soil. It is not a fact that ship-building was not known to Indians. I met one very well-known foreign naval engineer. He was telling me that at Maldah he saw boat-building industry on the riverside. He enquired of the people what was their formula and when those people explained the formula to him, he was surprised. He said that this formula had only recently been invented in England—either in England or in America, I am forgetting. He was surprised to see that this was known to Indians from pre-historic time. It is not this industry alone but many other industries like this were in a flourishing condition and they have all been killed and ruined by foreign import and foreign industries. It is no wonder that we should be very anxious now to revive our industries. We have all the raw materials, we have cheap supply of labour. Why should we not be able to revive this industry as well as others on modern lines? The Port Commissioners in Calcutta possibly opposed this new industry which was about to be started here and failing to get any support here the company has opened, I think, its works in Vizagapatam in Madras. Naturally, the Port Commissioners will oppose, because that is a closed bar to us. We are fighting for services in Government offices and in the Corporation, but the Port Trust is a place where neither the Hindus nor the Mussalmans can have any entrance. Naturally, the industry connected with their activities should also be a closed bar to us. We request the Government to help us to foster this industry. It will give a very great chance to the sons of the soil and I hope the Hon'ble Minister will support this resolution.

Mr. HUMAYUN KABIR: Mr. President, Sir, I have great pleasure in supporting this resolution. My honourable friend Mr. Nur Ahmed had certain difficulties with regard to this resolution even though he supported it. But I think if he goes carefully into the text of this resolution, he will find that there are no difficulties about it. The resolution divides itself into two parts. The first part of the resolution provides that the Government of Bengal should move the Government of India to start a ship-building industry in Bengal, and the second part refers to the starting of such ship-building companies by Indians and requests that the Government should grant subsidies and loans and other facilities to such Indian companies. I think, Sir, when this point is cleared, he will have no further difficulty in wholeheartedly supporting the resolution (Khan Bahadur NAZIRUDDIN AHMAD: He has supported it.) He has supported the resolution but he had certain difficulties with

regard to this point. We want simultaneous development from two directions—one by Government initiative inasmuch as Government should itself take a hand in building up that industry which it has so deliberately and so unjustly destroyed; and on the other hand the Government should help private enterprises in this country in reviving it. My friend Mr. Nur Ahmed and my friend Mr. Barua and Khan Bahadur Ataur Rahman Sahib have already referred to the way in which the ship-building industry in India has been destroyed. Even in the 19th century ships have been built here. I do not want to go to-day into that past history, a history of bitterness, a history of the way in which the Britishers, when they first came into this country destroyed all the industries in this country in order to exploit the capital resources of this land to advance their own interests. (Mr. J. B. Ross: Question.) The honourable member will not question me if he reads the economic history of India and of England. I would refer him to histories written by Englishmen and Frenchmen which are taught as text-books in the Universities of Oxford and Cambridge. I would refer him to Mantoux, the French historian, and also to Clapham, the historian of English economic life in the 18th and 19th centuries. I would refer him also to the history of the growth of the textile industry of England and also to that of the ship-building industry. I do not know whether he is aware that the history of the Navigation Acts of England is proof of the way in which England has developed her own ship-building industry by destroying the ship-building industries of other countries of the world. I do not know if the honourable member knows that even as late as 1667, the Dutch fleet sailed right up to the precincts of London and enforced the peace of Breda, as a result of which Navigation Act was revived to build up a strong British Fleet and prevent the recurrence of such an attack in future. Sir, these are matters of history which my honourable friend would profit by studying. But, as I said at the outset, it was not my intention to-day to go into the history of bitterness which has been the effect of England's political supremacy over other countries; and if Mr. Ross had not questioned me, I would not have referred to these facts at all.

To-day, we are opposing a common enemy, and therefore I did not want to go into the bitter story of how Bengal's industries were destroyed in the early period of the British administration of India. The fact remains that in every country in the world where the shipping industry has developed, it has done so with the help of the State. Everybody knows that the English shipping industry has been built up with State help, State initiative, and State encouragement. Everybody knows that the German shipping industry has developed with similar State help, State initiative, and State encouragement, and the same is true of Japan. Even to-day, whenever a country undertakes the

growth of shipping industry, the State comes to its aid. This resolution, therefore, urges upon the Government of Bengal to move the Government of India to establish a ship-building industry in Bengal and also to encourage it by the grant of construction bounties and also be advancing cheap loans and assisting the acquisition of suitable sites and by guaranteeing all Government and Port Trust works in connection with shipping to Indian shipping companies.

I think the claims of Bengal in this connection have to be considered very seriously. We do not know, Sir, why it is that, although the proposal to start a shipping industry was first mooted in Bengal, the site has suddenly been transferred to Vizagapatam in Madras. Further, we should like to know why in India with such a vast coast line, there should not be more than one ship-building centre. We have some of the best steel in the world in Bengal or near about Bengal. In India, Tata's is certainly the biggest steel-producing firm and it is one of the biggest in the world. We have here some of the best electricians, some of the finest workers in wood. We have here very good artisans, technicians and electricians; yet we do not understand why the proposal which was originally mooted, that there should be a ship-building industry round about Calcutta, was dropped and the site suddenly transferred to Vizagapatam. Let there be a centre at Vizagapatam, we do not, of course, object to that; but at the same time, the Government of Bengal will be failing in its duty if it does not press upon the Government of India the need for establishing a ship-building industry in Bengal which in the past has been one of the biggest ship-building centres in India and perhaps one may go further and say which has been one of the biggest ship-building centres in the world at one time.

Then, Sir, my honourable friend, Khan Bahadur Ataur Rahman, has referred to the opposition of the Port Commissioners to the establishment of a ship-building centre in Calcutta. I do not know if there is any representative of the Port Commissioners in this House or any member connected with that body, but certainly that body must answer for the opposition it has raised. What objections the Port Commissioners could have to the development of a key industry like the ship-building industry here in Bengal, I for one fail to understand. If the Port Commissioners have stood in the way of the development of a ship-building industry in Bengal, they have certainly done an injury for which they ought to be brought to book, and it should be the task of the Government of Bengal to see that the Port Trust, if it lies within their power, should be reconstituted with persons who are sympathetic to the growth of a ship-building industry near about Calcutta. I do not know, Sir, whether there is anybody in this House connected with the Calcutta Port Trust, but if there is one, he must

reply as to why this objection was made when we find that Bengal has all the special advantages in building a shipping industry in this province.

With these words, Sir, I support the resolution.

Mr. HAMIDUL HUQ CHOWDHURY: Mr. President, Sir, it is always the case whenever a reasonable proposal is made by the other side that this side of the House lends its support to it, and it is only when a resolution is unreasonable and unpracticable that support is withheld. The war is coming nearer home; it is coming both from the east as well as from the west, and our present helpless position is attributed largely to the attitude of the Englishmen towards the development of India's industries. During the last war, as at present, the Government of India started many industries which directly assisted War effort. Sir, ships are playing the most vital part in this war and, in fact, the entire existence of England depends upon her possession of a very large mercantile fleet. But so far as India is concerned, it has got none. All her maritime trade including her coastal trade is practically managed by foreign companies. The proposal to immediately start a ship-building industry in India was originally planned on the basis that Calcutta would be the site because Calcutta has many of the advantages which are not open to other Indian ports. The Government of India could not consider any of the western ports as suitable because they could not be safe at all. The only coast considered suitable was the coastline of the Bay of Bengal, either the Madras coast or the Bengal coast. The Calcutta port has the advantage not only of being a major port but also of being the nearest to the biggest iron industry in India. It has also got the advantage of securing timber which is very necessary for ship-building, an advantage which no other port in India has got. Calcutta has also got a number of small scale industries which are of great help to a ship-building industry. Calcutta is also able to supply skilled workmen who are already working in this line. Scientific assistance is nearer at hand than elsewhere. It was on these considerations that Calcutta was originally selected. It was only due to the short-sighted policy of the Calcutta Port Trust as regards the site selected, that the industry has now been transferred from Calcutta to Vizagapatam in Madras. We understand that a particular site was selected by the Scindia Steam Navigation Company near the Calcutta Electric Station on the bank of the Hooghly river. This site the Calcutta Port Commissioners refused to let out on good terms. They asked for an exorbitant rent which the Scindia Steam Navigation Company was unable to pay. The proper course for the Government of Bengal or for the Government of India, if not for the Calcutta Port Trust, was to come forward with a grant so that the industry should not have gone away from this port,

and it was most important for this Government to have stepped in and induced the Port Trust to allow the land to be given to the Scindia Steam Navigation Company on their own terms or to have come forward with positive financial help. The Government of India do not or did not care to understand the vital importance of having this large industry being started in this province. It meant much more than securing employment; it meant the resuscitation of a dead industry which was originally Bengal's; and it meant that India would have in future that instrument which is now most important for the defence of its coast line, namely, the possession of an Indian Navy and a mercantile fleet. They did not realise that. However, I submit that possibly it is not yet too late to impress upon the Government of India that they should come forward with a large amount of bounty for the starting of a ship-building company here so that the chance of building up this important and vital industry on a sound basis might not be missed. I submit that Bengal has got natural advantages which Vizagapatam has not. For these reasons, I think the Government of Bengal should approach the Government of India again to see that this important industry does not pass out of our hands to Vizagapatam. I do not agree with my friend, My Humayun Kabir, that the Government of India would be prepared to start two industries, one at Vizagapatam and the other at Calcutta. It is not possible to have two centres when you are depending on the initiative of a private shipping concern, namely, the Scindia Steam Navigation Company. If the Government of India or for the matter of that the Government of Bengal goes into the industry itself, as I would plead with them now that the old policy is gone, and they should not leave these key industries in the hands of privately-owned companies but that they should go into these industries themselves, then it would not be difficult to have one centre at Vizagapatam and another at Calcutta. The ship-building industry is one which, unless the State comes forward with liberal bounties, cannot thrive. Even when England was poorer by about 80 lakhs of tons during the last war and in order that this British industry might flourish it was necessary that it should be given such bounties as would not be available to this industry in other maritime countries. It was with such bounties that England was able to build up its industry quickly and with profit. In fact, every country which came forward with Government assistance flourished in this industry. Therefore, it is high time for our province immediately to come forward with a scheme of its own to develop its shipping industry and to try to induce the Government of India not to abandon the Calcutta scheme as originally mooted.

Mr. J. B. ROSS: Mr. President, Sir, the more I listen to my friend, Mr. Humayun Kabir's strictures on the British people and the British Government in regard to their suppression of all things Indian,

the less am I surprised at his ever-growing lack of logic. He has made a long statement the purpose of which is to show that the British Government have destroyed the ship-building industry of India in the interests of that industry in England. But in making that statement he completely overlooked one most important point. At the time the ship-building industry was flourishing in India, the ships that were constructed were made of wood. Nowadays, and ever since the steam-vessel came into its own, the construction of ships has been entirely of steel and at the time that change took place there were no steel works in India and there was no steel available unless it was imported from England or the Continent. I suppose that, according to Mr. Humayun Kabir, the fact that there was no steel in India at that time must be considered another instance of the Machiavelian action of the British Government. Sir, I rise to oppose this resolution most strongly, not because we are not in sympathy with the object underlying the resolution as it has been expressed in the amendment of my honourable friend, Mr. Nur Ahmed,—as a matter of fact, the resolution as proposed to be amended by him would have been acceptable by us,—but because, quite in keeping with the attitude of the mover of this resolution towards everything European, Mr. Lalit Chandra Das could not refrain from introducing something racial into the resolution, which makes it imperative on our part to oppose it, even though it is only on that ground.

Now, Sir, dealing with the merits of the resolution itself: according to Mr. Lalit Chandra Das, people are simply waiting to place large orders for ocean-going vessels with ship-building industries when a company is formed for the purpose which consists only of Indians. I do not understand where he gets that idea from, but I can assure him that there exists in Calcutta to-day a number of ship-building concerns of whom I shall name a few—the Burn & Company, the Hooghly Docking and Engineering Company, the India General and Navigation and Railways Company, and the Rivers Steam Navigation Company. These four concerns have their dockyards on the Hooghly; these four all build ships, and I am certain that the Hooghly Docking Company and Burn & Company would definitely expand their ship-building activities if the demand was there. They are not going to content themselves with building 1,500 ton tugs and 800 ton tugs and vessels of that description if they can secure orders for larger vessels which would give them larger profit. These concerns are doing what Mr. Lalit Chandra Das is proposing in his resolution that a new Company of Indians should do at much greater expense. They are training Indians in the art of ship-building and in the art of engineering generally and they are providing employment for thousands of such people but they have not gone to Government and asked for loans at cheap rates, bounties, advances of money, etc. What is lacking in regard to a ship-building

industry from the Indian point of view in this country is complete lack of enterprise. What Mr. Lalit Chandra Das wants Government to do is that Government should take the whole of the risk of loss in establishing a ship-building industry and let them come in afterwards as shareholders and take the profits. Well, that sort of enterprise speaks for itself.

I am afraid, Sir, I have already exceeded the time-limit and I would just conclude by saying that we do oppose the resolution as drafted largely because of its racial complexion.

Mr. PRESIDENT: Order, order. The House stands adjourned till 2-15 p.m. on Monday next.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 2nd September, 1940.

Members Absent.

The following members were absent from the meeting held on the 30th August, 1940:—

(1) Khan Sahib Abdul Aziz.

(2) Rai Bahadur Keshab Chandra Banerjee.

(3) Mr. Bankim Chandra Dutt.

(4) Mr. Narendra Chandra Datta.

(5) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(6) Mr. Mahomed Hossain.

(7) Alhaj Khan Bahadur Shaikh Muhammad Jan.

(8) Maulana Muhammad Akram Khan.

(9) Mr. W. B. G. Laidlaw.

(10) Mr. Naresh Nath Mookerjee.

(11) Dr. Radha Kumud Mookerji.

(12) Mr. W. F. Scott-Kerr.

B. G. Press—1940-41—7763A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 2nd September, 1940, at 2-15 p.m. being the twenty-first day of the Second Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

Mr. PRESIDENT: All questions put down in the list for being replied to to-day relate to the Education Department. The Hon'ble Minister-in-charge of this department not being in Calcutta, I have been requested to postpone the questions. There will, therefore, be no questions to-day.

The House will now take up the Bengal Co-operative Societies Bill, 1940.

The Bengal Co-operative Societies Bill, 1940.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: On a point of order, Sir. So far as the amendment of Mr. Amulyadhone Roy (No. 63) is concerned, when he started discussion I did not have an opportunity to point out that it was not in order. If you will kindly look to the amendment it will be seen that the provision is going to be mandatory, as it says—"no person shall be appointed either as Registrar..... except after consultation with and in accordance with the recommendation of the Bengal Public Service Commission." But if you refer to the Government of India Act, sub-section (3) of section 266, you will find it is laid down that it is within the power of His Excellency the Governor to take any appointment out of the purview of the Public Service Commission. If it were of a permissive character, we would have understood the position. But as the amendment now stands, it is going to be mandatory and is calculated to interfere with the jurisdiction of the Governor which he has been enjoying in accordance with the provisions of the Government of India Act. I submit, therefore, that this amendment is out of order.

Mr. KAMINI KUMAR DUTTA: I am afraid, Sir, I do not quite follow the point made out by the Hon'ble Minister.

Mr. PRESIDENT: All right, I shall explain the point taken by the Hon'ble Minister. In the amendment of Mr. Roy, provision to consult the Public Service Commission has been made mandatory, viz., no person shall be appointed Registrar except after consultation and in accordance with the recommendations of the Public Service Commission. Now, his contention is that in sub-section (3) of section 266 of

the Government of India Act, 1935, power has been given to His Excellency the Governor in his discretion to exclude certain posts from the purview of the Public Service Commission. Since the amendment moved by Mr. Amulyadhone Roy provides for compulsory consultation with the Public Service Commission, it will militate against the spirit of sub-section (*3*) of section 266 of the Government of India Act.

Mr. KAMINI KUMAR DUTTA: I submit, Sir, that whatever law we may make should be read subject to the provisions of the Government of India Act and in that spirit this amendment also is to be read. If really any regulation is framed by the Governor in his discretion, then even if this provision be inserted by the House in this Bill, the provision of the Statute shall prevail.

Mr. PRESIDENT: The question is: where discretion is given to His Excellency the Governor under the Government of India Act, will this House be in order to attempt to legislate in a way so as to prevent His Excellency from exercising the discretionary power given to him under the Statute?

Mr. KAMINI KUMAR DUTTA: I submit that we cannot do so.

Mr. PRESIDENT: In connection with the previous amendment, similar point of order was raised; but there the provision was not compulsory. Here, however, it is mandatory and so the objection seems to be valid.

Mr. KAMINI KUMAR DUTTA: The question is: whether this amendment can be read in the light of section 266 (*3*) of the Government of India Act. I think it would be applicable only in cases where there is no regulation made by the Governor.

Mr. PRESIDENT: In this amendment it has been provided that the Public Service Commission must be consulted. But here under section 266 (*3*) of the Government of India Act, discretion is left to the Governor. So, if this amendment is carried providing for compulsory consultation with the Public Service Commission, it will certainly militate against the right of the Governor to exercise his discretion as to whether the Public Service Commission is to be consulted or not.

Mr. KAMINI KUMAR DUTTA: We have no right to fetter the power of the Governor in any way. But if any particular provision is made in any law, that should be read consistently with the Act. In a case where the Governor has not exercised his discretion or has not framed any regulation, the appointment may be made by the Public Service Commission.

Mr. PRESIDENT: In this particular case the Governor has already framed a regulation excluding this appointment from the purview of the Public Service Commission.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The regulations were published under the authority of His Excellency on the 1st August, 1937. Regulations Nos. 34-35 make the position clear that with reference to these appointments it shall not be necessary to consult the Public Service Commission.

Mr. KAMINI KUMAR DUTTA: Is it in Schedule II?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: In Schedule IIB. This particular regulation 35 reads as follows:—"It shall not be necessary to consult the Public Service Commission with respect to the filling up of the posts in the Bengal General Services specified under Schedule IIB;" and, Sir, item 4 of that is the post of the Registrar of Co-operative Societies.

Mr. AMULYADHONE ROY: Sir, my amendment says that the appointment should be made after consultation with the Public Service Commission and the Government of India Act also says that the Public Service Commission would be consulted. My amendment refers to Registrar who is still unborn; my amendment also refers to Assistant Registrars——

Mr. PRESIDENT: I would like to clear the point. Under the Government of India Act section 266 (*3*), Governor has been given discretionary power to take the appointment of the Registrar out of the purview of the Public Service Commission and here in your amendment, Mr. Roy, you are attempting to deprive him of that discretionary power, viz., that "no person shall be appointed.....as Registrar.....except after consultation with and in accordance with the recommendations of the Bengal Public Service Commission." This means that you are proposing to take away His Excellency's discretionary power to decide whether he should or should not consult the Public Service Commission.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, section 266 of the Government of India Act lays down that certain appointments under the provincial Government must be referred to the Public Service Commission and that such appointments cannot be made without consulting the Public Service Commission, unless the Governor under sub-section (*3*) of section 266 excludes any of them from the operation of the general provision of section 266. Now, Sir, if the amendment suggested by Mr. Amulyadhone Roy is accepted, then it would curtail

that discretionary power given to the Governor under the Government of India Act and, as such, it militates against the spirit of that section of the Statute. This is my submission, Sir, with regard to Mr. Roy's amendment which, I think, is out of order.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to make a submission in this respect. It is clear that His Excellency in exercise of his discretion has not yet made any regulations excluding consultation with the Public Service Commission so far as the appointment of the Registrar is concerned.

Mr. PRESIDENT: No, no; the Hon'ble Minister has read out from the Official Gazette to show that His Excellency has already framed regulation taking out this post from the purview of the Public Service Commission.

Rai Sahib JATINDRA MOHAN SEN: Sir, he may have done that with respect to the post of Registrar, but with respect to the post of Assistant Registrar, I think, he has not done so, although, of course, one practically includes the other.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The Assistant Registrar is covered under Regulation No. 34 which I am reading: "It shall not be necessary to consult the Commission with respect to the filling of the posts in the Bengal Government Services in Schedule A annexed to the Act." Now, Sir, Schedule A contains a list of certain appointments including that of the Assistant Registrars of Co-operative Societies, Bengal.

Mr. HUMAYUN KABIR: May I make the submission that this exclusion is in respect of the Registrar as existing at present under the outgoing Act and not with regard to the post of the Registrar, as contemplated in the present Bill?

Mr. PRESIDENT: May I ask you to see that this amendment is of a mandatory character, viz., that the Governor shall have to consult the Public Service Commission? Can you override the section in the Government of India Act which gives discretionary power to the Governor?

Mr. HUMAYUN KABIR: I submit that the discretionary power of the Governor will enable him to override the provisions of any Bill which we might pass here, because any Bill which is passed here is subject to the approval of the Governor under the Government of India Act. In this particular case, until the post of the Registrar is excluded from the purview of the Public Service Commission, I think we have

power to legislate about it. I submit, Sir, that the Registrar, as contemplated under this new Bill, is an officer who is not yet in existence. In view of the very wide powers which are now proposed to be given to him, the Registrar's will be a new post altogether. Therefore, whatever may have been done in the past should not apply with regard to this new post. Of course, the Governor has the right to bring the post of the new Registrar also under his discretionary power and to keep it outside the purview of the Public Service Commission. But as he has not done so yet, I submit that the question does not arise till the Bill is passed by both Houses of the Legislature and receives the assent of the Governor and becomes an Act. I submit that till then the question of having excluded the Registrar from the purview of the Public Service Commission does not arise at all.

Mr. PRESIDENT: I do not accept the view that we should, with our eyes open, pass any legislation which is clearly *ultra vires*. It is the duty of the Chair to see that no legislation infringes the provisions of the Government of India Act. Even if I concede to Mr. Humayun Kabir's argument that sub-section (*3*) of section 266 of the Government of India Act gives only discretionary power to the Governor, I think that by passing this amendment of a mandatory nature we will be attempting to compel him not to use that discretionary power. Therefore, I hold that this amendment is out of order.

The question before the House is: that clause 9 stand part of the Bill.

(The motion was agreed to.)

Clause 10.

Mr. PRESIDENT: The question before the House is: that clause 10 stand part of the Bill.

(The motion was agreed to.)

Clause 11.

Mr. PRESIDENT: Clause 11 stand part of the Bill.

Mr. HUMAYUN KABIR: Mr. President, Sir, I beg to move that in sub-clause (*1*) of clause 11 of the Bill, after the words "any rules" occurring in line 2, the words "made under section 139 of this Act" be inserted.

Sir, the amendment of which I have given notice is almost a formal one. Clause 11 says: "subject to the provisions of this Act and of any rules, a society which has as its object the promotion of common

economic interests and so on. I suggest that instead of "any rules," it be put in "any rules made under section 139 of this Act." I take it that the Hon'ble Minister has also in his mind no other rules except those made under section 139 of this Bill. The Government reserve to themselves certain powers about making rules to give effect to this Act, and here all that I do is to suggest that the same provision shall be made clear with regard to this clause also.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 11 of the Bill, after the words "any rules" occurring in line 2, the words "made under section 139 of this Act" be inserted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am afraid the honourable member is labouring under some misapprehension. We have defined the term "rules" under clause 2, sub-clause (*5*), according to which "rules" means rules made under this Act. Therefore, I submit that this amendment is not necessary, because we have thought of rules in a large number of cases.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 11 of the Bill, after the words "any rules" occurring in line 2, the words "made under section 139 of this Act" be inserted.

(The amendment was negatived.)

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move that in sub-clause (*1*) of clause 11 of the Bill, after the word "members" in line 3, the words "or the sanitary improvement of the locality" be inserted.

Sir, my object is this. As a matter of fact, there are some societies which do not come within the purview of the clause as it is drafted at present. Therefore, in order to make it comprehensive, I have suggested this amendment. By way of illustration, I may point out that there are anti-malarial co-operative societies and other societies of that nature. These societies do not come within the purview of this clause. Therefore, I suggest that this clause be inserted so that this clause may be an all-comprehensive one.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 11 of the Bill, after the word "members" in line 3 the words "or the sanitary improvement of the locality" be inserted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I have got a similar but a slightly different amendment, which is of a wider nature. Shall I move it now?

Mr. PRESIDENT: Not now; you may move it afterwards.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Then, Sir, I have one word to say on this amendment. It is said in this amendment that to widen the provision of section 11, it is intended to bring in anti-malarial and other important co-operative societies under the purview of this Act. But I think, Sir, a still wider provision is necessary because there are educational societies which do not come under the definition of the term sanitary or economic. So, I have already given notice of a further amendment. I oppose this amendment and I will move my own amendment.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I appreciate the point of view put forward by Rai Bahadur Manmatha Nath Bose, Chairman of the Midnapore Central Bank. Sir, if you be good enough to allow my friend, the Khan Bahadur Sahib, to move his amendment, that will cover all cases. If I may anticipate his amendment, if we drop the word "economic" in the third line of sub-clause (*1*) of clause 11, it will cover not only anti-malarial societies, which my honourable friend the Rai Bahadur wants to include, but also educational societies and other societies which may be formed under this Act. I hope the Rai Bahadur will withdraw his amendment and allow Khan Bahadur Saiyed Muazzamuddin Hosain to move his amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 11 of the Bill, after the word "members" in line 3 the words "or the sanitary improvement of the locality" be inserted.

(The amendment was negatived.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I have got an amendment No. 74A.

Mr. PRESIDENT: When was notice of this amendment given?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: On the 27th August, 1940.

Mr. PRESIDENT: May I refer the honourable member to section 63 of the Bengal Legislative Council Procedure Rules? It reads: "Any member who wishes to move an amendment to any Bill under the consideration of the Council shall give notice thereof, except as provided in rule 80 (in which case seven days' notice is necessary), at least ten days before the first day on which the Bill is to be taken into consideration by the Council and shall, together with the notice, send a copy of the amendment which he desires to move." The word used here is "shall" and it is mandatory. The Chair has no discretionary power to suspend this rule.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, hitherto we have been permitted to move such amendments when there was no objection.

Mr. PRESIDENT: Will you please refer me to any section of the Rules in which the Chair has been given the right to suspend this rule?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: That has been the convention of the House.

Mr. PRESIDENT: You may, however, rely on section 64 of the Rules which says that on an oral request made by a member at a meeting of the Council, the President, in his discretion may admit an amendment to a Bill under the consideration of the Council.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Then, Sir, I propose to move this as an oral amendment with the permission of the Chair and the House.

Mr. PRESIDENT: If there is no objection from any member of the House, I shall allow the honourable member to move his amendment as a short-notice amendment. In future, however, I shall strictly enforce this rule, because after carefully going through the rules I find that the Chair has got no discretion to accept an amendment after the expiry of the due date fixed for the purpose. Short-notice amendments like the present one may be accepted by the Chair only if there is no objection from any honourable member of the House.

(There was no objection.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, with the permission of the Chair, I move that in sub-clause (*1*) of clause 11 of the Bill, the word "economic" appearing in line 3, be omitted.

Sir, my object in doing so is to widen the scope of the Bill so that it may not concern only the economic interest of the members of the society. There are other interests also. There are some co-operative societies in this province which deal not only with economic interests but also with educational, sanitary and other interests. So, I say, Sir, that it is absolutely necessary that the word "economic" should go out, the words "common interests" being sufficient to represent the object of such societies with which the Co-operative Department can deal. Sir, it has been said from certain quarters that the word "economic" is wide enough to include education and sanitation, but I do not think that the dictionary gives any such meaning, nor have we got the definition of the term "economic" given in such a way in this Bill. So I think, Sir, it is very necessary that the word "economic" should go out and the section should read, "has as its object the promotion of the common interests of its members in accordance with co-operative principles."

With these observations, Sir, I move my amendment and hope that it will be accepted by the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 11 of the Bill, the word "economic" appearing in line 3, be omitted.

Rai Bahadur MANMATHA NATH BOSE: Sir, I oppose this amendment. The word "economic" is very necessary in the Co-operative Societies Act. Sir, this word did not find place in the Bill which was originally drafted, and I find, Sir, that in the Select Committee this word was inserted with a view "to emphasise the chief cause actuating co-operative societies." As a matter of fact, the expression "economic" is necessary as otherwise plenty of societies, which are not at all connected with economic matters or are connected with matters not dealt with in the Co-operative Societies Act, will come within its fold. I may, by way of illustration, bring to your notice an example which has been given by Mr. Calvert in his book where he says that the Station clubs which are to be found in all district headquarters are really co-operative societies, but they ought not to be registered by the Registrar, as they are not at all economic. He says, "An Indian Station club is a co-operative society whose object is the provision of recreation, games, reading, etc., for its members, but not the promotion of economic interests. It is usually strictly co-operative in its constitution and rules. It is a good example of a co-operative society which cannot be registered under this Act, but may be dealt with under the Companies Act." So, if you omit the word "economic" and thereby make its application very, very wide, then all sorts of societies and clubs will come under this clause and that is not at all desirable in a Bill which we are going to frame for the co-operative societies. Therefore, I oppose this amendment.

Mr. HUMAYUN KABIR: Mr. President, Sir, I beg to support the amendment moved by the Khan Bahadur in spite of the very weighty argument which has been advanced by my honourable friend Rai Bahadur Manmatha Nath Bose. I would point out to him that the first part of clause 11 reads, "subject to the provisions of this Act and of any rules." Now, the moment we say, "subject to the provision of this Act," I take it that the Preamble is also included and in the Preamble it is stated that the object of the co-operative society is promotion of thrift, self-help and mutual aid. Now, Sir, the Station clubs to which reference has been made by the Rai Bahadur are certainly cases of self-help and mutual aid, but they are not institutions for promotion of thrift. Therefore, I submit that even if this amendment of the Khan Bahadur is accepted, Station clubs will be excluded from the scope of this Bill. Sir, my friend the Rai Bahadur pointed out the cases

of anti-malarial societies and the Khan Bahadur has referred to certain educational societies and it is obvious that some extension of the scope as provided in clause 11 is necessary. If the word "economic" is taken away, this extension is effected and at the same time we safeguard against the inclusion of undesirable organisations: undesirable, I say, from the point of view of co-operative societies, because clubs in themselves are not undesirable. We exclude such organisations by the Preamble of the Act read with the clause itself which says, "subject to the provisions of this Act and of any rules." I, therefore, submit that the apprehensions of my honourable friend are unfounded and that the amendment would be a definite improvement on the clause.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, as I have already expressed my view, I support this amendment of my friend Khan Bahadur Saiyed Muazzamuddin Hosain, and I hope that after what my friend Mr. Humayun Kabir has said, the apprehension which is still lingering in the mind of Rai Bahadur Manmatha Nath Bose will disappear. The Khan Bahadur's amendment is certainly an improvement on what the Rai Bahadur has in view. I submit that it makes possible for such classes of people to be included.

Mr. PRESIDENT: The question before the House is the amendment of Khan Bahadur Saiyed Muazzamuddin Hosain: that in sub-clause (*1*) of clause 11 of the Bill the word "economic" appearing in line 3 be omitted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 11, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 12.

Mr. PRESIDENT: Clause 12 stand part of the Bill.

Mr. SHRISH CHANDRA CHAKRAVERTI: I beg to move that in clause 12 of the Bill before the word "Unless" occurring in line 1, the following words be inserted, namely:—

"A society may be registered either with limited or with unlimited liability as the members may desire, provided that."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: May I submit, Sir, at this stage that you will kindly take up all the amendments which refer to the same subject. Amendments Nos. 83-85 and 86-87, 88, 90, all deal with the same subject.

Mr. PRESIDENT: What about amendment No. 89?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Except that, others may be taken up together.

Mr. SHRISH CHANDRA CHAKRAVERTI: Sir, the question is whether the society is to be registered either with limited or with unlimited liability, as the members may desire. To some, it may appear that the difference between limited and unlimited liability is merely academic. I say, Sir, that it has a practical side to it as well. Before I enter into such discussion, I must present before the House a picture of the present state of co-operative societies with special reference to Bengal in order to find out what progress this movement has already made. I may read out to you the report of the Commercial Intelligence of the Government of India, embodied in the Madras Report (page 147), where a comparative statement relating both to the number of societies and number of members and other relevant particulars, province by province, for 1935-36, compiled by the Department of Commercial Intelligence and Statistics, furnishes an idea of the ground covered by the movement in the provinces concerned:—

Province.	Population (in millions).	Total number of societies.	Total members of primary societies.	Number of members of primary societies per 1,000 inhabitants.	Number of societies per 100,000 inhabitants.
Madras	49 1	13,284	887,688	18·1	27·1
Bombay	19·1	4,847	537,464	28·1	25·4
Bengal	51·9	23,512	796,088	15·3	45·3
Punjab	25·2	22,498	777,398	30·8	89·3

From the above figures, it will be seen that the Punjab comes first in order of merit in this matter; then comes Bombay and Bengal holds the fourth position. In this connection, Sir, I may read out a relevant portion from the report of the Reserve Bank of India, Agricultural Credit Department. There it will be seen that "the number of agricultural societies was 78,253, but about one-third of them were classified as D or E, which means that they were not working properly or were on the verge of liquidation. The total membership of these societies was 2,552,623 which is only 1·06 per cent. of the rural population. When the statistics of all the provinces are combined, the general picture is undoubtedly unfair to some, such as Punjab, Bombay and Madras in which the movement is in a better condition, but it also on the other hand serves to cover the correspondingly weaker position in others."

So, Sir, it is now clear that the movement has not yet taken firm root in the soil, although it has been in existence for the last 35 years.

The system of co-operation was not unknown to India of ancient times, but it was in much cruder form having regard to the circumstances of that age. I mean, Sir, the joint family system, wherein members were governed by the principle of unlimited liability, inasmuch as two brothers, one earning Rs. 500 a month and the other earning nothing were entitled equally to the properties of the family, although acquired out of the earning of one. That system, as we are well aware, has become out of date and whatever little is lingering is being crumbled to dust, due to the growth of individualism as a result of cultural contact with the West. I do not say, however, that we are altogether lacking in altrustic sense, but we do not propose to incur the risk of unlimited liability for others. We, of course, justify this tendency by saying that everybody must work for his own living and should not be an economic burden on society. My point is that the failure of the joint family system may be ascribed principally to its feature of unlimited liability, in legal phraseology, apart from other defects.

Now, Sir, we have been confronted with the problem whether the liability of the members regarding co-operative societies should be limited or unlimited. The societies of Europe began with unlimited liability and they worked well. They were, however, a voluntary organisation unlike those in India, which have been superimposed from above, *i.e.*, by governmental authority. In the Western world opinion seems to be divided in this respect. England, Ireland, and America are supporting limited liability and Germany, France and Finland are supporting unlimited liability. India, following the Raiffersen model of Germany adopted unlimited liability from 1904, and being notoriously a conservative country, will not change from unlimited to limited liability, even now, although there may be sufficient reasons for it.

Sir, next I may read out a portion from Mr. Calvert's book which will be relevant to the point under discussion: "However, in India we can hardly expect more public spirit than is shown in more advanced countries such as Ireland; we read that when credit societies began to spread into districts where comparatively well-to-do families might have joined them, these men were frightened away by the prospect of being made responsible to an unlimited extent for their neighbours."

It is extremely unfortunate that the Bengal Government should have rushed into this legislation without acquiring first-hand information about the working condition of a society and without giving the consideration that this movement deserves. The Madras Government appointed a committee of 21 members including persons of eminence and experience. I may read out a relevant portion as to what the members thought about the question of limited and unlimited liability. I may say that this report of the Committee on Co-operation of the Madras Presidency is practically the latest publication on the subject.

It was published in 1940. On pages 155-56 of their report it is written —"We have discussed at some considerable length the question of the nature of the liability on which the society as reorganised on a wider basis for groups of villages with enlarged functions should be based. Unlimited liability has been one of the basic principles of the rural co-operative credit organisation in India (which followed closely the Raiffersen system..... There is a large body of opinion which insists upon it as the basic principle of village co-operative credit organisation. The majority of us consider that unlimited liability has outlived its utility. Firstly, even when the principle as embodied in Act of 1904 (India) was under discussion in the Council of the Governor-General in India, it encountered opposition and the late Mr. Gokhale stated: 'it (unlimited liability) is a principle which our *raiyats* in many parts of rural India can scarcely be able to understand .....Insistence of such a principle would keep away from the new societies those very classes whose help and co-operation would be indispensable'..... Secondly, in recent years there has been a large number of liquidations of societies, and the enforcement of unlimited liability to make up the deficit in assets of societies to pay off their creditors has caused hardship to the members, some of whom are either non-borrowers or non-defaulters and caused apprehension in the minds of the rural classes and brought the movement into general disrepute. Thirdly, we believe that unlimited liability has kept away the solvent or better class of agriculturists whose sympathies and material and moral help, if secured, would contribute to the efficient management of societies. Fourthly, unlimited liability does not imply that persons having joined the society cannot alienate their properties as long as they continue to be members thereof..... In the recent past, we find that percentage of recoveries to the total amount of contribution orders enforcing unlimited liability was very small..... The MacLagan Committee, however, pointed out that it was merely intended to be contributory by which the ultimate deficit could be secured by a series of levies per capita on members, direct action by any proceedings against individual members being forbidden. But the committee was not clear about the stage at which it would be enforced..... Fifthly, it is efficient management rather than unlimited liability that induces confidence among financing banks and depositors. The written replies we have received reinforce the view that a change in the form of liability will not interfere with the inflow of deposits into the movement and that the confidence of depositors depends, to some extent, on the belief that the Government, through inspection, audit and other forms of statutory control, is behind the movement and to a larger extent on the good management of societies..... Sixthly, unlimited liability is based on the fundamental idea of the members of a village society possessing mutual knowledge of each other's affairs and exercising some control over their fellow-members in matters of their borrowing

and punctual repayment of loans. But these assumptions are not the realities of village life to-day——

Mr. PRESIDENT: Order, order. Is it necessary to have recourse to such extensive reading from various books to show the comparative merits or demerits of limited and unlimited liability companies? We remember to have read in our college days the advantages and disadvantages of limited and unlimited liability.

Mr. SHRISH CHANDRA CHAKRAVERTI: We want an answer from Government on this point.

Mr. PRESIDENT: You state your case instead of reading extensively from the book.

Mr. SHRISH CHANDRA CHAKRAVERTI: As I said, this was the opinion of the majority of the committee. There was also a minority of those members who were insisting upon unlimited liability and afterwards after careful consideration they submitted that it should depend on the members themselves in framing rules as to whether a society should be limited or unlimited. The members of the society in a particular area should have the option to formulate the rules by themselves as to whether a society should be of limited liability or of unlimited liability.

I further submit, Sir, that as legislators we are more concerned with the general principles of legislation than minute detail of law, which might be left to the care of the Government. I hope the Hon'ble Minister will reply to the points raised by me and not avoid answering such issues like a professional lawyer arguing a weak case only to satisfy the client. Here we, both Government and Opposition, are out to explore avenues for devising measures for the best interests of our constituents and the public at large. May I hope that the Hon'ble Minister will please clarify the points of principle on which there is honest difference of opinion?

With these words, Sir, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in clause 12 of the Bill before the word "Unless" occurring in line 1, the following words be inserted, namely:—

"A society may be registered either with limited or with unlimited liability as the members may desire, provided that."

Mr. HUMAYUN KABIR: Mr. President, Sir, with regard to the amendment which has just now been moved, I have one difficulty in my mind. I am not yet quite clear as to how the amendment which

has just now been moved makes any difference to the Bill clause as proposed by Government. The Bill clause 12 says that a society can be limited or unlimited, but in certain cases a society shall be registered with unlimited liability and in certain other cases it shall be registered with limited liability. The Government further reserve to themselves the power of modifying this in certain cases. According to this amendment, a society which generally is to be a society of unlimited liability can be one of limited liability and conversely a society which is generally to be one of limited liability can be one of unlimited liability, if the Government so desires. The amendment which has just now been moved does not seem to me to make any difference to what has been provided in the Bill clause.

I confess, Sir, that the language of the Bill-clause is rather cumbrous and clumsy, because it has been put in the form of a negative instead of in the more direct form in which it occurs in the Co-operative Societies Act itself. As I see it, Sir, there is not much difference between section 4 of the Co-operative Societies Act and clause 12 of this Bill. Only in section 4 of the Act, it is stated in a direct manner and the exception is made in the proviso, whereas in the Bill-clause 12, it is first stated in a negative manner and then the Government reserve to themselves the right of making exception to the negative prohibition or otherwise. Therefore, Sir, I am not quite clear in my mind in what respect amendments Nos. 79-82 make any difference whatsoever to Bill-clause 12, since according to the amendment also the option will ultimately remain with the Government as to whether Government will allow a society to be registered as a limited liability society or as an unlimited liability one. It is also provided in amendments Nos. 79-82 that generally societies which have a majority of agriculturist members or which have any withdrawable share capital shall be societies of unlimited liability and societies of which the member is a co-operative society shall be a society of limited liability. Therefore, Sir, I do not see what difference exactly has been made by the proposed amendment.

With regard to my own amendment, I do not move it formally because I am also doubtful as to how far this question of limited liability or unlimited liability ought to apply in agricultural areas. There are two sides of the case and I would request the Hon'ble Minister when he takes up this point, to present the Government point of view with respect to this matter. From one point of view, it seems that unless the societies are of limited liability, relatively solvent, well-to-do and honest agriculturists will not come into the co-operative society, because if they do so they will undertake unlimited liability for any loan which may be incurred by any of their fellow-members. On the other hand, I also see the force of the contention that unless in an

agricultural society of this type, all the members are prepared to undertake joint liability, a co-operative central bank will not be willing to advance money to such a society. Therefore, there seems to be a difficulty here. On the one hand, there may be in some cases undue hardship on solvent and honest agriculturists and the Bill-clause, as drafted now, may keep them out of a co-operative society. But, on the other hand, if there is no safeguard the central bank may not be willing to advance money to such a rural agricultural society. If the Government can think of any provision by which money can be guaranteed with safeguards or take some steps so that the more honest and solvent of the agriculturist members in a co-operative society are not liable to such hardships, I think most of the objections of members on this side of the House will be met. That is what has been troubling, as I take it, many of the members of this House. If there is unlimited liability, it may prevent the growth of co-operative movement in rural areas, because many persons may be frightened of the responsibility which would be placed upon them and the more honest a person is, the more shy he would be to undertake the responsibility. Because the honest person takes the responsibility with the desire of fulfilling the obligation, whereas other persons may give assurances knowing fully that they have no intention of fulfilling such promises. If the Government clear up this point, I think it may remove many of the difficulties on this side of the House.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, the point raised is a simple one. My friend Mr. Kabir has answered the long argument that my friend Mr. Chakraverti advanced in support of his amendment, and showed that it should be left to the option of the members to have societies of limited or unlimited liability character. Now, Sir, it has been said by Professor Kabir that if it were left to the agriculturists to have their liability as they chose, then the difficulty will arise of the financing banks not agreeing to supply them with the money that they need. Unless the financing banks are sure that their money is safe, it will not be possible for them to come forward with adequate financial assistance to societies of this character. But it is argued in the next moment by Professor Kabir that it will be difficult for honest agriculturists to come and become members of such societies which will be formed on unlimited liability basis as the result of which they will have to undertake responsibility on behalf of their colleagues. That may be so, but the difficulty that has arisen so far is not based on that ground. For, the difficulty has been that people came and were given loans as much as they chose without having any examination about their credit-worthiness. We have, therefore, got a definite provision in clause 39 of this Bill to have the normal and maximum credit of each and every one of the members of societies determined before he is allowed to take any loan. As soon as that is done, the

objection that is raised by my friend Professor Kabir that it will be difficult for honest members to come and undertake the responsibility along with his colleagues will at once be met. For, the honest agriculturist will know as soon as he becomes a member of a society the credit-worthiness of his colleagues for whom he has to undertake the responsibility.

Sir, we are not unmindful of this position and we think that time has not yet come when we will be justified to leave it to the option of such people to have their liability fixed according to their own desires. Therefore, Sir, to remove that further apprehension we have another provision in clause 43 (*1*) of this Bill which will make it possible to change the character of the liability of a society of that nature. So, I submit that in view of the safeguard that we have already thought of, there need be no apprehension to have a provision of this nature in clause 12, for we are no less anxious to have these agricultural credit societies developed on proper lines.

I submit, Sir, this meets the point that has been taken by my friends Mr. Kabir and Mr. Chakraverti. With this submission of mine, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in clause 12 of the Bill before the word "Unless" occurring in line 1, the following words be inserted, namely:—

"A society may be registered either with limited or with unlimited liability as the members may desire, provided that."

(The amendment was negatived.)

Mr. KAMINI KUMAR DUTTA: I beg to move that the following provisos be added to clause 12 of the Bill, namely:—

"Provided that the liability of a society whose objects include the creation of funds to be lent to its members and of which the majority of members are agriculturists may, at the option of its members, be limited or unlimited:

Provided, further, that in the case of limited liability societies, no share shall be withdrawable except in accordance with the bye-laws."

Sir, in course of discussion on the previous amendment moved by Mr. Shrish Chandra Chakraverti, the question of limited and unlimited liability was fully discussed and I do not propose to deal with it again in detail. It has been said that a society with unlimited liability creates more confidence in the financiers; but I do not myself agree to that proposition at all. It is the efficient management of a society which creates confidence and the question of limited or unlimited liability does not come in at all. On the other hand, in a case where the liability is limited, it will attract more influential and well-to-do people who

will be in a position to assess the respective credit-worthiness of all those who will be dealing with them and will also be in a position to judge the capacity of the borrowers. We must consider these aspects of the matter and look to the modern tendency of the societies which is towards limited liability and not towards unlimited liability, particularly when with the growth of the societies, members in the villages are not really in a position to know each other or their private affairs. Previously the liability was unlimited and the members in the villages were cognizant of their private affairs. So, it will be seen that the creation of a society with limited liability would create confidence not only among members, but also among financiers *inter se*.

With these few words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that the following provisos be added to clause 12 of the Bill, namely:—

"Provided that the liability of a society whose objects include the creation of funds to be lent to its members and of which the majority of members are agriculturists may, at the option of its members, be limited or unlimited:

Provided, further, that in the case of limited liability societies, no share will be withdrawable except in accordance with the bye-laws."

Khan Bahadur ATAUR RAHMAN: Sir, I rise to oppose this amendment, because the very essence and principle of co-operation seem to have been forgotten by my friend, Mr. Kamini Kumar Dutta. He has not, however, gone out of the province like Mr. Shrish Chandra Chakraverti who has quoted from voluminous books and reports and has taken us to Ireland, Holland and other places and treated us with his theoretical eloquence.

Mr. SHRISH CHANDRA CHAKRAVERTI: You have also borrowed from those places; it is not your own system.

Khan Bahadur ATAUR RAHMAN: If my friend had any idea of the working of rural societies, I do not think he would have brought in such an amendment. The very idea of the co-operative movement is to create a feeling of reciprocal help and mutual confidence. Take the case of a society with five solvent members and 25 members who are in bad financial condition. Unless they all combine to improve their condition and co-operate among themselves, it is impossible for them to carry on a co-operative society in the rural area. In that case, well-to-do men will always look after the poorer people. The former have got to see that when the latter have harvested their jute, the society may recover the debts due to it from such debtor members. If

such control is not exercised by all the members among themselves, it is impossible for one Registrar to control such a society and the society will never prosper. I shall ask some of my friends opposite to start co-operative societies in the mufassil and to finance them on the basis of limited liability, and see if they can do that. I am sure nobody will advance one pice to such a society. If such a society is started, everyone will come forward and buy ten shares and take Rs. 100 and then a few days after he will say that he is insolvent. If this is done, where will that one hundred rupees come from? It will make the society unworkable and will bring the movement to stagnation. Sir, the failure of the movement, if it be called a failure, has been due to want of co-operation among the members. When members really co-operate, then it is an ideal society; and if the moment is to be a success, it must be of an unlimited liability. The old law was quite clear, and I do not know why Government kept some power of giving limited liability to some societies. The whole idea is that the entire co-operative movement in rural areas should be based on the principle of unlimited liability. Suppose, there are co-operative societies of artisans who have nothing except tools or weaving appliances worth about two rupees, but such an artisan may be given Rs. 100 simply because of the principle of unlimited liability and there are others looking after them. If you refuse to give unlimited liability, then you can as well start a loan office like a joint-stock company, and then it will be no need for having all the paraphernalia contemplated in this Bill. But if you want to have real co-operative societies, it must be on an unlimited liability basis in the rural area.

Mr. NUR AHMED: Mr. President, Sir, I rise to oppose this amendment. If this amendment is carried, I think it would be better for Government to give up this amending Bill as it will go wholly against that very movement for furtherance of which the present Act is going to be enacted. First, my objection is based on the condition of the working of the agricultural societies of unlimited liability; out of a total of about 24,000 societies, 21,000 are of an unlimited character. What is the condition of these societies? Their capital is about six crores of rupees, and their liabilities are more than three crores. They are increasing day by day with the result that most of the central banks are becoming practically unworkable; they are failing to pay their yearly quota to the provincial bank and are practically becoming insolvent. What do we find from departmental reports? We find that during the three years from 1935-36 to 1937-38, the percentage of such liability has increased from 74 to 86, and it is further on the increase. It is with a view to reducing the amount of such liability that Government have made this provision in the Bill. I submit that it is a beneficial provision which cannot be objected to from any point of view. Further, Sir, Government can relax this rule and therefore I do not

think any necessity for this amendment. I ask, what will be the effect of this amendment? It will practically nullify the main principle of the Bill. If this option is given to the promoters of societies, what is the necessity of the main provision? Even in the report of the Madras Enquiry Committee very recently published, it is significant to find that the committee have recommended that agricultural societies should be of unlimited liability, and the same is the finding of the Bengal Banking Enquiry Committee. I submit that if this amendment is carried, the principle of co-operation will be gone. Therefore, I oppose this amendment.

Mr. NARESH NATH MOOKERJEE: Sir, my friend Mr. Nur Ahmed has said that the morality of the majority of the agriculturists is so bad that unless we make them liable to an unlimited extent we cannot create credit for the co-operative societies or put them on a better footing. What I would like to point out to the House is this. The object of the co-operative society is to lend money to its own members, and I feel that in agricultural districts there are bound to be some prosperous agriculturists and some less prosperous agriculturists. Unless we are able to get the help and co-operation of the more prosperous and well-to-do agriculturists and unless they could be made to come forward and co-operate with the less prosperous agriculturists, I do not think this movement has any chance of success. After all, why should the more prosperous agriculturists accept unlimited liability in order to help the less prosperous agriculturists who are their competitors? Although I am not an expert on co-operative movement as my friend Khan Bahadur Ataur Rahman is, I look at it from a practical point of view, and I sense danger that this movement will be restricted rather than fostered and will belie the hopes of the sponsors of the Bill. Sir, section 39 lays down clearly the restrictions for lending money. Even some primary agricultural societies are allowed to grow with limited liability and the Registrar has got full authority to impose restriction on lending money, and there can be no danger of one running away with more money than he can be credited with. Therefore, to presume that it is necessary to enforce unlimited liability on the society because there is the danger of the whole society collapsing, is, I think, going too far. I feel that we should in these days, particularly when it is the intention to foster the movement, try and instil the spirit of co-operation into the minds of the more prosperous agriculturists to help those who are less prosperous, so that by their co-operation the whole movement will be successful. Otherwise, no agriculturists with any means will be prepared to come forward to accept memberships and only societies with very meagre capital and less prosperous agriculturists will grow. It will not encourage the prosperous men with better financial position to come forward to join this movement and this will thus be a deterrent step. I, therefore, request my frineds on the other

side to look at the amendment from this angle. Clause 39 will do away with the difficulty apprehended by my friends; otherwise, only people with no means will come and join, and no prosperous men will join it. It will be only a third-rate society.

With these words, I support the amendment of my friend and leader Mr. Kamini Kumar Dutta.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am sorry to have to oppose this amendment. While doing so, I am entirely at one with the point of view put forward by the Honourable Leader of the Opposition when he says that it depends upon the efficient management of the society that creates confidence in the public mind. He also says that if it were left to the discretion of the members, to decide the question of limited or unlimited liability, then it would draw honest people of the rural areas to these co-operative societies. But, Sir, there is nothing to prevent people from coming together and forming themselves into a co-operative society. The question then is: whether by forming a society on limited liability basis they can draw finances from the financing banks. If not, then the position becomes rather serious. My friend Mr. Naresh Nath Mookerjee, while trying to meet the point raised by Mr. Nur Ahmed and Khan Bahadur Ataur Rahman, practically forgot the other side of the question, namely, that if it were left to themselves to form a society on a limited liability basis, the difficulty will be that the financing banks will not advance them any money. It is one thing for members to come and form themselves into a society, but it is entirely different when they have got to depend upon others for their finances. It is from that point of view that a provision like this has been incorporated in this Bill-clause. Clause 39 is a guarantee for the members themselves to see that one does not steal a march over another. Therefore, Sir, I submit with all respect that Mr. Dutta's amendment does not take us very far and does not give us any solution. It has been very rightly answered by my friend Khan Bhadur Ataur Rahman. If we are to accept an amendment of this nature, it will absolutely take away the essence of co-operation from a society of this character. But as I have pointed out in reply to other amendments, if the society so makes progress, there will be nothing to prevent it from changing the nature of its liability, as we have contemplated in section 43(*1*). But I submit, Sir, at this stage it will be difficult, rather impossible, for us to agree to an amendment of this nature being accepted. For, we feel that it will not be conducive to the welfare and development of rural credit societies.

As regards the second part of this amendment, I submit that it has been dealt with in sub-clause (*1*) of clause 12(*a*), and if any further assurance is wanted, clause 68 deals definitely with a suggestion of this kind. I submit, therefore, that the first one does not meet the point and the second one is not necessary.

Mr. NARESH NATH MOOKERJEE: On a point of explanation, Sir. The Hon'ble Minister in his reply has stated that the financing banks will advance money to those societies whose liability is unlimited. Does he presume that they will advance unlimited sums? If the society is limited, then they will advance to the extent of its liability. Beyond the capacity of a bank, no one expects the financing banks to advance money.

Mr. PRESIDENT: Order, order. The question before the House is: that the following provisos be added to clause 12 of the Bill, namely:—

"Provided that the liability of a society whose objects include the creation of funds to be lent to its members and of which the majority of members are agriculturists may, at the option of its members, be limited or unlimited:

Provided, further, that in the case of limited liability societies, no share shall be withdrawable except in accordance with the bye-laws."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 12 stand part of the Bill.

(The motion was agreed to.)

Clause 13.

Mr. PRESIDENT: The question before the House is: that clause 13 stand part of the Bill.

(The motion was agreed to.)

Clause 14.

Mr. PRESIDENT: The question before the House is: that clause 14 stand part of the Bill.

(The motion was agreed to.)

Clause 15.

Mr. PRESIDENT: The question before the House is: that clause 15 stand part of the Bill.

(The motion was agreed to.)

Clause 16.

Mr. PRESIDENT: The question before the House is: that clause 16 stand part of the Bill.

(The motion was agreed to.)

Clause 17.

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move that in sub-clause (*2*) of clause 17 of the Bill, after the word "amendment" in line 6, the words "within six months of the date of receipt of the same" be inserted.

Sir, sub-clause (*2*) of clause 17 of this Bill is practically the same as section 11 of the outgoing Act. What I wish to submit is that so far as this amendment is concerned, when an application was sent to the Assistant Registrar for registration I am aware that—and I am speaking of a particular case—within 7 years no reply was received from the Assistant Registrar to whom this was sent. Therefore, Sir, I have been compelled to propose that registration may be done within six months. That is the reason why I am proposing this amendment and I hope the Hon'ble Minister will be pleased to give his attention to it.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 17 of the Bill, after the word "amendment" in line 6, the words "within six months of the date of receipt of the same" be inserted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I certainly appreciate the difficulty of the Chairman of the Midnapore Central Bank. We also feel in the same way and our anxiety is to see that these things should be done as quickly as possible. I have explained before that there have been various difficulties in our way to do these things as quickly as we should have desired, but it is certainly desirable that we should be able to dispose of these matters as early as they demand. I submit, however, Sir, that it will be difficult for us to accept an amendment of this nature to impose a statutory obligation upon the departmental head, for we do not know what contingency may arise. But I can only assure my friend that we shall certainly keep this in view.

I hope, therefore, Sir, that on this assurance he will withdraw his amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*2*) of clause 17 of the Bill, after the word "amendment" in line 6, the words "within six months of the date of receipt of the same" be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 17 stand part of the Bill.

(The motion was agreed to.)

lause 18.

Mr. PRESIDENT: The question before the House is: that clause 18 stand part of the Bill.

(The motion was agreed to.)

Clause 19.

Mr. PRESIDENT: The question before the House is: that clause 19 stand part of the Bill.

(The motion was agreed to.)

Clause 20.

Mr. PRESIDENT: Clause 20 stand part of the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in sub-clause (*1*) of clause 20 of the Bill, after the word "members" occurring in line 2, the words, figure and brackets "or representatives elected under sub-section (*3*) as the case may be" be inserted.

Sir, the object of the amendment is only to make the meaning more clear. There it is stated that the final authority in respect of every co-operative society shall vest in the general body of members assembled at the general meeting. There are cases where all the members do not attend general meetings, but send their representatives to attend the meeting. In order to remove the confusion that may arise and to make it more explicit, this amendment has been moved.

Mr. PRESIDENT: There is no sub-section (*3*) to clause 20.

Mr. KAMINI KUMAR DUTTA: Sir, I mean, in proviso to sub-section (*1*) of section 20.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 20 of the Bill, after the word "members" occurring in line 2, the words, figure and brackets "or representatives elected under the proviso of sub-clause (*1*)" be inserted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am extremely sorry that the Leader of the Opposition should have at all moved this amendment. It follows that the final authority must be vested in the members assembled at the general meeting under the proviso of sub-clause (*1*). We are thinking of the delegates being left to themselves so that it may be possible for such delegates to attend the final meeting at which the members shall be elected. I submit it is repetition of what we have done in sub-clause (*1*). It is not necessary to repeat it here and this is my short answer against this amendment.

Mr. PRESIDENT: The question before the House is the short-notice amendment of Mr. Kamini Kumar Dutta: that in sub-clause (*1*) of clause 20 of the Bill, after the word "members" occurring in line 2, the words, figure and brackets "or representatives elected under the proviso of sub-clause (*1*)" be inserted.

(The amendment was negatived.)

Mr. KAMINI KUMAR DUTTA: I beg to move that the following further proviso be added to sub-clause (*1*) of clause 20 of the Bill, after the existing proviso, namely:—

"Provided, further, that it shall not be competent for the general body of members in a meeting to increase the rate of dividend recommended by the managing committee of a society."

Sir, my object in moving this amendment is that it is really the managing committee which is in a position to consider soberly the financial position of the society. The members assembled at a meeting are not in a position to consider that matter. As the full power is vested under clause 20 in the members assembled at the general meeting, I think there must be some restriction put by the law not to increase the dividend by the members at such a meeting. I think it would be quite safe for the managing committee to determine the rate of dividend, as they will be in a better position to judge and understand the financial position of the society. So, I think that the power of members assembled at the general meeting ought to be restricted to that extent.

With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that the following further proviso be added to sub-clause (*1*) of clause 20 of the Bill, after the existing proviso, namely:—

"Provided, further, that it shall not be competent for the general body of members in a meeting to increase the rate of dividend recommended by the managing committee of a society."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I submit that this is matter of detail and it can be provided in the rules or bye-laws. I submit further that the second line of sub-clause (*2*) of clause 20 makes it quite clear, namely, "and shall exercise its authority in such manner as may be prescribed." First of all in a general meeting of this nature, auditors' reports will have to be examined before the question of the distribution of dividends comes for its consideration. So, this is a matter of detail and it is not necessary to have this proviso. With these words, I oppose this amendment.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Kamini Kumar Dutta that the following further proviso to be added to sub-clause (*1*) of clause 20 of the Bill, after the existing proviso, namely:—

"Provided, further, that it shall not be competent for the general body of members in a meeting to increase the rate of dividend recommended by the managing committee of a society."

A division was then demanded.

(At this stage Mr. Amulyadhone Roy rose on a point of order.)

Mr. AMULYADHONE ROY: May I rise on a point of order now?

Mr. PRESIDENT: Don't rise from your seat; you can raise a point of order while sitting when a division is taking place.

Mr. AMULYADHONE ROY: Thank you, Sir. My point of order is, whether the Hon'ble Minister, who is not a member of this House, can say "Aye" or "No"?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I remind you that it was your ruling once that Ministers, though not members of the House, can shout "Aye" or "No".

Mr. PRESIDENT: I will give my ruling on this point after the division is over.

A division was then taken with the following result:—

AYES—14.

Bose, Rai Bahadur Manmatha Nath.
Chakraverty, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Choudhury, Mr. Ranajit.
Ray, Rai Sahib Jogendra Nath.
Ray, Mr. Nagendra Narayan.
Roy, Mr. Amulyadhone.
Roy Chowdhury, Mr. Birendra Kishore.
Sanyal, Mr. Sachindra Narayan.
Sen, Rai Sahib Jatindra Mohan.

NOES—28.

Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Barua, Mr. Dhirendra Lal.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Humayun Reza.
Chowdhury, Khan Bahadur Rezaqui Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Ferguson, Mr. R. W. N.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Jan, Alhaj Khan Bahadur Shaikh Muhammad.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Lamb, Sir T.
Molla, Khan Sahib Subidali.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur Atuar.
Rashid, Khan Bahadur Kazi Abdur.
Ross, Mr. J. B.
Roy, Rai Bahadur Radhica Bhusan.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, The Hon'ble Sir Bijoy Prasad.
Stark, Mr. A. F.
Talukdar, Dr. Kasiruddin.

Mr. PRESIDENT: Order, order. The House has divided. For the amendment—14; against the amendment—28: the amendment is, therefore, negatived.

As regards the point of order raised by Mr. Roy as to whether a non-member Minister can say "Aye" or No," I find that I gave a ruling previously also on this very point. Saying "Aye" or "No" really means voting, because division may not be demanded always. It is a manner of taking votes undoubtedly. Ministers have every right to take part in the proceedings of this House, but when I put a question, non-member Ministers will be debarred from saying "Aye" or "No," because that will be taking part in the voting from which they are precluded by the Government of India Act.

Mr. AMULYADHONE ROY: May I know further from you, Sir, if a non-member Minister shouts "Aye" or "No", whether he will be liable to the payment of Rs. 500 fine?

Mr. PRESIDENT: Order, order. Every Minister under the Government of India Act has the right to take part in the proceedings, but he cannot take part in voting.

The question before the House is: that clause 20 stand part of the Bill.

(The motion was agreed to.)

Clause 21.

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move that in sub-clause (*2*) of clause 21 of the Bill, for the words "within three months" in line 4, the words "within six months" be substituted.

Sir, I have brought this suggestion on the basis of my personal experience. I find, Sir, that within three months this is not done and generally cannot be done. So, I have brought this amendment, now it is for the Hon'ble Minister to say whether or not he will accept it.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 21 of the Bill, for the words "within three months" in line 4, the words "within six months" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am sorry I have to oppose. For if my honourable friend would be good enough to look into the proviso to sub-clause (*2*), he will find that not more than 18 months shall be allowed to lapse between one general meeting and another. If we consider what we have got in sub-clause (*2*), it will appear that we have thought of 15 months being allowed to lapse and the Registrar on special grounds may extend the period by 3 months. If we have 6 months, that will take us beyond 18 months provided in the proviso to sub-clause (*2*). I submit, therefore that we have thought of different time in this clause. It will mean that matters mentioned here should be speeded up—matters which will be placed before the general meeting can be arranged in such a way as will not take us beyond the period mentioned.

I submit, therefore, Sir, that this ought to satisfy my honourable friend and he will withdraw his amendment, otherwise I will oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*2*) of clause 21 of the Bill for the words "within three months" in line 4, the words "within six months" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 21 stand part of the Bill.

(The motion was agreed to.)

Clause 22.

Mr. PRESIDENT: The question before the House is: that clause 22 stand part of the Bill.

(The motion was agreed to.)

Clause 23.

Mr. PRESIDENT: Clause 23 stand part of the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move: that clause 23 of the Bill be renumbered as clause 32(*1*) and the following new sub-clauses be added thereafter, namely:—

"(*2*) There shall be a Council of Supervision constituted in accordance with the bye-laws in every co-operative society having limited liability."

(*3*) The Council of Supervision shall supervise the committee of management in its conduct of business; shall examine the annual statement of accounts prepared by the committee of management, the balance sheet and the proposals for distribution of profits and report to the general meeting on these points.

(*4*) The Council of Supervision may at any time require a report from the committee of management upon the state of business and may itself, or through members deputed by it, examine the books and papers of the society as well as verify the cash in bill and the stock of securities, bills and goods and may exercise such other powers as may be conferred by this Act, rules and the bye-laws:

Provided that the members of the Council of Supervision shall not be at the same time members of the committee of management."

Sir, the Bill provides that there shall be a managing committee which shall exercise all the powers which may be conferred upon it by the rules and the bye-laws. But it is well-known that the managing committees do not really function so efficiently as is expected of them and if really any efficient working of the society is contemplated, it is necessary that there should be another body which should be given power by the bye-laws to examine all the papers and have a general power of supervision over all the works of the society and be in a position also to present a report of their working before the members of the society assembled at the general meeting. This would really help an efficient working of all the societies. The managing committee will be on their guard and at the same time if there be any mistakes on the part of the managing committee, they would be rectified by this Council of Supervision. So, by this amendment what is really intended is the efficient working of the society and nothing else.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that clause 23 of the Bill be renumbered as clause 23(*1*) and the following new sub-clauses be added thereafter, namely:—

"(*2*) There shall be a Council of Supervision constituted in accordance with the bye-laws in every co-operative society having limited liability.

(*3*) The Council of Supervision shall supervise the committee of management in its conduct of business, shall examine the annual statement of accounts prepared by the committee of management, the balance sheet and the proposals for distribution of profits and report to the general meeting on these points.

(*4*) The Council of supervision may at any time require a report from the committee of management upon the state of business and may itself, or through members deputed by it, examine the books and papers of the society as well as verify the cash in bill and the stock of securities, bills and goods and may exercise such other powers as may be conferred by this Act, rules and the by-laws:

Provided that the members of the Council of Supervision shall not be at the same time members of the committee of management."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose this amendment. I would only appeal to the Hon'ble Leader of the Opposition just to consider whether his experience as chairman of a central bank would at all dictate that a committee or Council of Supervision should be placed over his head sitting as the chairman of the central bank. The managing committee itself will be in charge of executive work of the society and if a Council of Supervision with the duties as are mentioned in the several paragraphs of this amendment are appointed, they would get into clash at every moment. Sir, the managing committee are there to take upon themselves all the duties which an executive ought to. If this Council of Supervision are to be appointed at all—I do not know how they are to be appointed—they will have the power to look into the accounts, to dictate terms to them and to do this and that. Then, the last line of this proviso says that they are not to be members of the managing committee. That only shows that they are to be members from outside who would come and dictate as to how their business would be conducted.

Therefore, Sir, I submit that instead of helping the managing committee in any way and having anything in the nature of efficient work of the society they will lead to difficulties in the work of the society. I submit, Sir, that this amendment is absolutely unnecessary, and I oppose it.

Mr. PRESIDENT: The question before the House is: that clause 23 of the Bill be renumbered as clause 23(*1*) and the following new sub-clauses be added thereafter, namely:—

"(*2*) There shall be a Council of Supervision constituted in accordance with the bye-laws in every co-operative society having limited liability.

(*3*) The Council of Supervision shall supervise the committee of management in its conduct of business, shall examine the annual statement of accounts prepared by the committee of management, the balance sheet and the proposals for distribution of profits and report to the general meeting on these points.

(4) The Council of Supervision may at any time require a report from the committee of management upon the state of business and may itself or through members deputed by it, examine the books and papers of the society as well as verify the cash in bill and the stock of securities, bills and goods and may exercise such other powers as may be conferred by this Act, rules and the bye-laws:

Provided that the members of the Council of Supervision shall not be at the same time members of the committee of management."

(The amendment was negatived.)

Mr. PRESIDENT: The question before House is: that clause 23 stand part of the Bill.

(The motion was agreed to.)

Clause 24.

Mr. PRESIDENT: Clause 24 stand part of the Bill.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move: that in clause 24 of the Bill, after the word "Crown" occurring in line 3, the words "not below the rank of a Sub-Deputy Collector" be inserted.

Sir, it is a very important section and provision is being made that in certain circumstances the provincial Government may on the application of a co-operative society depute a servant of the Crown to the service of the society for the purpose of managing its affairs. So, I think that it is desirable that a provision should be made as regards the status of the servant of the Crown who may be deputed for the purpose of managing the affairs of the society, and I have proposed that such a servant of the Crown should not be a person below the rank of a Sub-Deputy Collector. The reason is obvious and I do not want to dilate upon this point. Sir, the servant of the Crown may be anyone from a very minor servant serving under the Crown to a very important person. So, it is necessary, Sir, that a person, who should be deputed for the purpose of managing the affairs of a society which may fall into difficulties, should have some important status and my proposal is that he should be not below the rank of a Sub-Deputy Collector.

Sir, I do not think that my proposal is unreasonable, and I hope that the Hon'ble Minister will kindly accept it.

Mr. PRESIDENT: Amendment moved: that in clause 24 of the Bill, after the word "Crown" occurring in line 3, the words "not below the rank of a Sub-Deputy Collector" be inserted.

Khan Bahadur ATAUR RAHMAN: Mr. President, Sir, our friend, the Rai Sahib, is forgetting that the expenses of the officer, his

salary and leave allowance, his pension contributions and other charges will have to be paid by the societies for whose work he will be deputed. There are societies which will not be able to pay even Rs. 50 a month, and how will such societies be able to provide for such officers? Therefore, I submit that this power should be in the hands of Government. Government knows their officers best, and they will select officers suitable for the purpose. I therefore oppose the amendment.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Mr. President, Sir, I would like to point out to the Rai Sahib that we are legislating about the co-operative societies and that it is not necessary to bring in the question of any executive officer like a Sub-Deputy Collector. So far as the co-operative movement is concerned, we know the Registrar and his subordinates, namely, the Assistant Registrars, the Inspectors and the Auditors, but we are not concerned with an officer of the type of Sub-Deputy Collector. It will be for the departmental head to decide which type of officer will be able to take charge of the affairs of a society, when it asks for the services of a particular officer. I think that this amendment is rather based upon a misapprehension; because when a society will ask for the services of an officer of a particular type, it will be for the department to see that it is able to find out such an officer. I submit, therefore, that there is no justification for this amendment and I oppose it.

Mr. PRESIDENT: The question before the House is: that in clause 24 of the Bill, after the word "Crown" occurring in line 3, the words "not below the rank of a Sub-Deputy Collector" be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 24 stand part of the Bill.

(The motion was agreed to.)

Clause 25.

Mr. PRESIDENT: Clause 25 stand part of the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that sub-clause (*2*) of clause 25 of the Bill be omitted.

Under sub-clause (*1*) of this clause, the Registrar has been given the power of dissolution and reconstitution of the managing committee; to that we have raised no objection. But in sub-clause (*2*), extraordinary powers of taking disciplinary measures have been conferred on the Registrar. This power is of such a drastic nature that the Registrar may order that all or any of the members of the outgoing

committee shall, for such period not exceeding three years as he may determine, be disqualified for election or appointment as an officer of the society. Indeed, it is a power of a very drastic character, and it has to be seriously considered whether such a power ought to be given. The power given of dissolution and reconstitution of the managing committee is no doubt a healthy power, but at the same time to vest the drastic power of debarring a member from being elected for three years, and that on the judgment of one officer only, I mean the Registrar, is, in my opinion, highly detrimental. The dissolution and reconstitution would, I think, be a sufficient warning and a sufficient safeguard against any further mismanagement of the society, and such drastic power for taking such disciplinary measures does not seem to be called for. And in no other law is to be found such drastic power given to a particular officer to debar a particular individual from enjoying the right of franchise simply because he in his opinion is found to be guilty of some sort of laches or misconduct.

With these few words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that sub-clause (*2*) of clause 25 of the Bill be omitted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Mr. President, Sir, I have to oppose this amendment. The honourable member would do well to peruse for a moment sub-clause (*1*) of this clause. He would then realise the necessity and the justification for sub-clause (*2*). It is, Sir, only when the members of a managing committee have mismanaged their affairs, that dissolution is contemplated, and if such members who have mismanaged those affairs are allowed to come back, sub-clause (*1*) becomes ineffective. I admit that the powers sought to be given are of a radical character; I do not deny that; but it is really necessary for the purpose of improving the condition of such a society if reconstruction is to mean anything. Then again, although the power is of a radical nature, if there is anything which goes wrong, it is not without remedy; for clause 133 allows an appeal against the Registrar's order. Therefore, I submit that there is no justification for the House to accept this amendment.

Rai Bahadur MANMATHA NATH BOSE: Mr. President, Sir, as it is provided in clause 26 that if the managing committee is not dissolved and reconstituted, the Registrar may by order dissolve the managing committee, and shall thereupon appoint one or more suitable persons to manage the affairs of the society, there is no necessity for the Registrar to disqualify all or any of the members of the outgoing committee for a period not exceeding three years under section 25. Debarring any member from the committee of management

for three years is a very wide power, and I do not think it proper that it should be vested in any single individual. This power, moreover, will be resented by the non-official workers, and it is very likely that the Registrar will become very unpopular. I submit that this sort of unpopularity is not desirable. Moreover, it will give the Registrar the same powers which the Select Committee wanted not to vest him with, and the purpose of the amendment made by the Select Committee in sub-clause (*1*) will be entirely frustrated. On these grounds, I submit, Sir, this clause should be entirely deleted.

Mr. NARESH NATH MOOKERJEE: Mr. President, Sir, I rise to support this amendment. As my honourable friend, Rai Bahadur Manmatha Nath Bose, has said, the Registrar has already been given powers under clause 26 to dissolve the managing committee and to take over the management of a mismanaged society. I do not see why in spite of that, the Registrar should be given the authority to ban certain members of any managing committee for three years. The danger apprehended is that they may be re-elected by the electorate. Now, Sir, if a member has really mismanaged the affairs of a co-operative society, and if it is still the desire of the other members of the society to re-elect him, I do not see why there should be any intervention from outside. After all, there is the danger of the Registrar abusing his powers and disqualifying members for reasons known only to himself. But why should we take away this power from the electorate and the members of the committee? I submit that it is a most retrograde clause in the Bill. In my opinion it should be deleted because the powers given under the subsequent clause is quite enough to safeguard the interests of the society concerned.

Khan Bahadur SAIYED MAUZZAMUDDIN HOSAIN: Mr. President, Sir, I desire to give a short reply to the speeches of my friends, Mr. Mookerjee and the Rai Bahadur. It is said that the Registrar will have very arbitrary powers under this sub-section, but it is forgotten that there lies an appeal against an order of the Registrar under these powers. It will be seen from the Fourth Schedule to this Bill that if the Registrar passes such an order, it will be appealable to the provincial Government. So, there is no chance of the Registrar arbitrarily doing anything according to his sweet will, but whatever he will do he will have to do in the best interests of the society concerned. We know, Sir, that it may not be considered desirable to stand in the way of one's re-election, but we know also that there are many influential men who can get themselves re-elected even after committing very grave offences. So, I submit, the Registrar should have such powers, but as appeal lies against an order under these powers, I think, there is no chance of any injustice being done.

With these words, Sir, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that sub-clause (*2*) of clause 25 of the Bill be omitted.

A division was then demanded and taken with the following result:—

AYES—11.

Bose, Rai Bahadur Manmatha Nath.
Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Dutta, Mr. Kamini Kumar.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Choudhury, Mr. Ranajit.
Ray, Rai Sahib Jogendra Nath.
Roy, Mr. Amulyadhone.
Roy Chowdhury, Mr. Birendra Kishore.
Sen, Rai Sahib Jatindra Mohan.

NOES—24.

Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Barua, Mr. Dhirendra Lal.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqul Haider.
D'Rozario, Mrs. K.
Ferguson, Mr. R. W. N.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Molla, Khan Sahib Subidali.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur Ataur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Ross, Mr. J. B.
Roy, Rai Bahadur Radhica Bhusan.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, The Hon'ble Sir Bijoy Prasad.
Stark, Mr. A. F.
Talukdar, Dr. Kasiruddin.

Mr. PRESIDENT: Order, order. The House has divided. For the amendment—11; against the amendment—24: the amendment is, therefore, negatived.

The question before the House is: that clause 25 stand part of the Bill.

(The motion was agreed to.)

Clause 26.

Mr. PRESIDENT: Clause 26 stand part of the Bill.

Khan Bahadur M. SHAMSUZZOHA: Sir, I beg to move that in sub-clause (*1*) of clause 26 of the Bill, for the words "appointment of a fresh" occurring in line 9, the words "constitution of a new" be substituted.

Sir, this is necessary in view of the fact that the person who will be appointed to manage the affairs of a committee which will be dissolved, should also thereafter be invested with the power to arrange for the constitution of the committee. Therefore, Sir, instead of the words "appointment of a fresh," the words "constitution of a new" should

be substituted so as to be in consonance with other parts of the clause. So, I have proposed the amendment which, I hope, will be accepted by the Hon'ble Minister.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 26 of the Bill, for the words "appointment of a fresh" occurring in line 9, the words "constitution of a new" be substituted.

The question before the House is: that in sub-clause (*1*) of clause 26 of the Bill, for the words "appointment of a fresh" occurring in line 9, the words "constitution of a new" be substituted.

(The amendment was agreed to.)

Mr. NUR AHMED: May I have your permission to move a short-notice amendment? I want only to add the words "not exceeding two years"——

Mr. PRESIDENT: Order, order. Notice of the amendment was not received in time. If there is objection from anybody, I shall not allow it to be moved.

Mr. NARESH NATH MOOKERJI: Sir, we have not got a copy of the amendment.

Khan Bahadur ATAUR RAHMAN: The amendment was circulated to us.

Mr. PRESIDENT: Order, order. Everything that is received in the office is circulated. As there is no objection, I allow Mr. Nur Ahmed to move his amendment.

Mr. NUR AHMED: Sir, I beg to move: that in the proviso to sub-clause (*1*) of clause 26 of the Bill, after the word "period" occurring for the second time in line 2, the words "not exceeding two years" be inserted.

Sir, I think this is necessary. Section 26 gives power to the Registrar to dissolve the managing committee, to appoint a person or persons for the management of the affairs of the co-operative society for a period not exceeding one year. In the proviso it is stated that the provincial Government may extend the period of one year for such further period as it may think fit. My purpose is to limit that period to two years. I think it is very necessary. Government should not have unrestricted power to extend the period. So, I hope my amendment will be accepted.

Mr. PRESIDENT: Amendment moved: that in the proviso to sub-clause (*1*) of clause 26 of the Bill, after the word "period" occurring for the second time in line 2, the words "not exceeding two years" be inserted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am prepared to accept the amendment because it is not the Government's intention to keep the affairs of the society in this sort of condition for a longer period than is absolutely necessary.

Mr. PRESIDENT: The question before the House is: that in the proviso to sub-clause (*1*) of clause 26 of the Bill, after the word "period" occurring for the second time in line 2, the words "not exceeding two years" be inserted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 26, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 27.

Mr. PRESIDENT: The question before the House is: that clause 27 stand part of the Bill.

(The motion was agreed to.)

Clause 28.

Mr. PRESIDENT: The question before the House is: that clause 28 stand part of the Bill.

(The motion was agreed to.)

Clause 29.

Mr. PRESIDENT: The question before the House is: that clause 29 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 3rd September, 1940.

Members absent.

The following members were absent from the meeting held on the 2nd September, 1940:—

(1) Khan Bahadur Naziruddin Ahmad.
(2) Mr. Kader Baksh.
(3) Khan Sahib Abdul Aziz.
(4) Rai Bahadur Keshab Chandra Banerjee.
(5) Mr. Bankim Chandra Dutt.
(6) Mr. Narendra Chandra Datta.
(7) Khan Bahadur Alhadj Khwaja Muhammad Esmail.
(8) Maulana Muhammad Akram Khan.
(9) Mr. W. B. G. Laidlaw.
(10) Dr. Radha Kumud Mookerjee.
(11) Raja Bhupendra Narayan Sinha Bahadur.

B. G. Press—1940-41—8185A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 3rd September, 1940, at 2-15 p.m. being the twenty-second day of the Second Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

MR. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Test relief work in Faridpur.

96. Mr. HUMAYUN KABIR: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(a) the amount of money allotted by Government for test relief work in the Sadar subdivision of Faridpur during the year 1939-40;

(b) the amount allotted to each thana of the subdivision;

(c) the agency through which the money was spent;

(d) whether any money was spent through the union boards;

(e) whether any money was given to any private individual for carrying out such relief work; if so, their names and the amount placed at the disposal of each;

(f) the name of the Subdivisional Officer at Faridpur Sadar at the time; and

(g) if the then Subdivisional Officer approved all the works undertaken and sanctioned money for them?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir BIJOY PRASAD SINGH ROY): (a) Rs. 19,600.

		Rs.
(b) Kotwali P. S.	...	4,000
Charbhadrasan P. S.	...	1,900
Sadarpur P. S.	...	3,550
Bhanga P. S.	..	1,350
Bhushna P. S.	...	5,500
Nagarkanda P. S.	...	3,300
Total	...	19,600

(*c*) Presidents of Union Boards, Chairmen of Debt Settlement Boards, Chairman, Sadar Local Board, members of the District Board, Relief Committee constituted for Test Relief purposes and some private persons.

(*d*) Yes.

(*e*) Yes. (1) Maulvi Khandaker Shah Abul Baser of Goaldi—Rs. 250, and (2) Munshi Esmail Mia of Komorpur and Munshi Abdur Rashid of Komorpur—Rs. 1,000. Total—Rs. 1,250.

(*f*) Mr. H. H. Nomani.

(*g*) The District Magistrate and the Subdivisional Officer approved all the works undertaken and sanctioned money for them.

Mr. HUMAYUN KABIR: Arising out of (*e*), in view of the fact that the money was distributed through the Union Boards and Debt Settlement Boards and other Test Relief Committees, what was the point in handing over this money to private individuals?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I believe that where the Union Boards and other local bodies had no adequate facilities to carry on the work and where the work could be done more effectively and more quickly through private individuals, the money was entrusted to them.

Mr. HUMAYUN KABIR: If these Union Boards were not competent to carry out this very important work, why did not the Government consider setting aside these Union Boards and having new ones?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, this is a very sweeping generalisation that my friend has made. It does not mean that Union Boards are incompetent to do their work. It is a question of facility. A particular Union Board may not have adequate facility to carry on the work in a particular area and if the money is handed over to a particular gentleman living in that village with adequate influence probably he will do it much better than the Union Board whose office may be situated at 5 miles distance.

Mr. HUMAYUN KABIR: Is it not a fact that generally persons of the Union Boards are people in the locality with some influence?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Not necessarily.

Mr. HUMAYUN KABIR: Is the Hon'ble Minister referring to the nominated members of the Union Boards?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Some times nominated members have more influence than some of the elected members.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister please explain how these members are elected if they have no influence in the locality?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it is a very common experience that many elected members have no influence at all even in their own community, and that he may be an isolated individual in a whole group.

Rural water-supply.

97. Mr. HUMAYUN KABIR: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) the amount of money allotted to Faridpur for rural water-supply;

(*b*) the number of tube-wells proposed to be offered to the different subdivisions of the district;

(*c*) the agency through which the tube-wells are to be distributed;

(*d*) the basis on which the distribution will take place; and

(*e*) if he will consider the formation of a Committee consisting of the members of the Bengal Legislative Council and Assembly of the district to supervise the distribution of the tube-wells?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, Minister in charge of the Public Health and Local Self-Government Department): (*a*) Rs.29,419 for the year 1940-41.

(*b*) to (*e*) The question of the distribution of the tube-wells and other sources of water-supply will be considered by the local Water-supply Committees at the headquarters of the thana, the subdivision and the district. Copies of the relevant Circulars are laid in the Library. Government have already issued definite instructions that the local M.L.A.'s and M.L.C.'s should be associated with the Water-supply Committees in the district. This will be again impressed upon the local officers.

Mr. RANAJIT PAL CHOUDHURY: Have the Government enquired whether the tube-wells are functioning satisfactorily in the mofussil?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government have already held enquiries. Tube-wells will be sunk only in those areas where they are a success.

Mr. RANAJIT PAL CHOUDHURY: Apart from the success of the tube-wells from the boring point of view, are the Government aware that the mechanical parts of the tube-wells constantly go out of order?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The parts sometimes go out of order, but I should not say that they are absolutely unserviceable or useless. In fact, these tube-wells have been a great boon to the country and the water-supply problem has been partially solved because of these tube-wells.

Mr. RANAJIT PAL CHOUDHURY: In view of the fact that in many places tube-wells do give a lot of trouble, will Government consider sinking wells instead of tube-wells?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I think that is the programme. Where tube-wells are not a success, they sink masonry wells and where masonry wells are not a success, they go for tanks.

The Bengal Co-operative Societies Bill, 1940.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Co-operative Societies Bill, 1940.

Mr. LALIT CHANDRA DAS: On a point of information, Sir. If an honourable member in whose name a certain amendment stands is absent, can it be the privilege of other members of the House to move that amendment following the precedent of questions?

Mr. PRESIDENT: No.

Clause 30.

Mr. PRESIDENT: Clause 30 stand part of the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that after paragraph (*d*) of clause 30 of the Bill, the following new paragraphs be inserted, namely:—

"(*dd*) audited balance sheet;

(*ddd*) auditor's report;

(*dddd*) a register of mortgages created in favour of the society, if the society is a land mortgage bank".

Sir, no doubt every society must maintain an audited balance-sheet, and auditor's report and a register of mortgages created, but what is really contemplated by this amendment is that they must be open to inspection. In order to make them available for inspection, if any member would like to inspect them, I move that along with other documents provided in clause 30, these documents also may be added, namely, the audited balance-sheet, the auditor's report and the register of mortgages created.

Mr. PRESIDENT: Amendment moved that after paragraph (*d*) of clause 30 of the Bill, the following new paragraphs be inserted, namely:—

"(*dd*) audited balance sheet;

(*ddd*) auditor's report;

(*dddd*) a register of mortgages created in favour of the society, if the society is a land mortgage bank".

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I desire to support this amendment which has been moved but, Sir, will you allow me to move my amendment which runs exactly on similar lines?

Mr. PRESIDENT: Yes.

Mr. LALIT CHANDRA DAS: I beg to move: that in clause 30 of the Bill, for paragraph (*e*), the following be substituted, namely:—

"(*e*) audited balance-sheet and auditor's report and a register of mortgages created in favour of the society, if the society is a land mortgage bank, and such other documents as may be prescribed."

Mr. PRESIDENT: Further amendment moved: that in clause 30 of the Bill, for paragraph (*e*), the following be substituted, namely:—

"(*e*) audited balance sheet and auditor's report and a register of mortgages created in favour of the society, if the society is a land mortgage bank, and such other documents as may be prescribed."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose both these amendments. Sir, it will be appreciated that so far as the second item, namely, an auditor's report is concerned, it is impossible for a society to keep it open for inspection by the public, because it will only lead to the disclosure of the internal affairs of a society. With regard to the first item, namely, audited balance-sheet,

I hope clause 31 will satisfy the honourable member, where a provision has been made that the balance-sheet authenticated by the audit officer shall be annually published by every co-operative society in the prescribed manner. With regard to item 3, namely, a register of mortgages created, I submit it will be prescribed in the rules, because it is a matter of detail. I may assure the House that where it is necessary for the society to keep a register of that nature and when a person who wants to have any transaction, he will be given the information that is necessary. I submit that it is not necessary to have any detail of this nature in the Statute and on these grounds, I oppose both these amendments.

Mr. PRESIDENT: The question before the House is: that after paragraph (*d*) of clause 30 of the Bill the following new paragraphs be inserted, namely:—

"(*dd*) audited balance sheet;

(*ddd*) auditor's report;

(*dddd*) a register of mortgages created in favour of the society, if the society is a land mortgage bank;"

and for paragraph (*e*), the following be substituted, namely:—

"(*e*) audited balance sheet and auditor's report and a register of mortgages created in favour of the society, if the society is a land mortgage bank and such other documents as may be prescribed."

(The amendments were negatived.)

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that to clause 30 of the Bill, the following proviso be added, namely: —

"Provided that a certified copy of the documents mentioned above shall be available from the society on payment of a prescribed fee."

This is quite in consonance with the clauses which are applicable in case of other banks. It has been felt that a similar provision should be included in this particular clause.

Mr. PRESIDENT: Amendment moved: that to clause 30 of the Bill, the following proviso be added, namely:—

"Provided that a certified copy of the documents mentioned above shall be available from the society on payment of a prescribed fee."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, this also, I submit, is a matter of detail. For, I believe, it will be appreciated that this cannot be a regular business of a society of this nature. It should certainly be one of the items of its business and whenever any such thing is necessary, arrangements will be made to see that this is done. As a matter of fact, Sir, we are contemplating rules being definitely framed for this purpose. I submit it is not necessary to have this provision in the clause. I oppose it.

Mr. PRESIDENT: The question before the House is: that to clause 30 of the Bill, the following proviso be added, namely:—

"Provided that a certified copy of the documents mentioned above shall be available from the society on payment of a prescribed fee."

(The amendment was negatived.)

Mr. HUMAYUN KABIR: I beg to move that to clause 30 of the Bill the following proviso be added, namely:—

"Provided that these shall be in the Bengali language and also in any other language desired by at least a third of the membership of the society."

Sir, I take it that most of the societies in which we are interested are composed of agriculturists who do not know any other language but Bengali. In very many cases the number of literates among them in even Bengali will not be very large. It may, however, be that in certain urban areas there may be members who may be non-Bengali-speaking people. It is possible to imagine that in Calcutta there may be some co-operative societies in which a sufficient number of members may not be Bengali-speaking. So, I have suggested that if at least one-third of the members demand, all these rules and bye-laws shall be in any language other than Bengali, as demanded by them. Of course, the Act is in English and it will be kept in central banks and headquarters; but for use in societies in the rural areas, the Act will have no value at all unless it is in the Bengali language. Clause 30 deals exclusively with rural co-operative societies. I think it will be clear to all members of this House that unless the rules, bye-laws and registers of the societies are kept in the Bengali language, they will not be of any value so far as rural societies are concerned. I take it that it is the usual custom that in most rural societies they are kept in the Bengali language. Sir, I have no objection if these rules and bye-laws, etc., are kept in Bengali only, and I make it definitely binding on the society that these rules, etc., should be kept in Bengali language and in any other language that may be demanded.

because otherwise it is just possible that a particular managing committee, if they want to take advantage of the present ambiguity, may keep them in any language other than the Bengali language and in this way may place difficuties in the way of understanding the rules by the rural people. I hope Government and the Coalition Party members will have no objection to my amendment.

Mr. PRESIDENT: Amendment moved: that in clause 30 of the Bill the following proviso be added, namely:—

"Provided that these shall be in the Bengali language and also in any other language desired by at least a third of the membership of the society."

Mr. MUKUNDA BEHARY MULLICK: Sir, when Professor Humayun Kabir has himself said that in most of the rural societies the rules are kept in Bengali language, I do not understand why he should include this provision in clause 30. It is for the members of the societies themselves—to judge in which language the bye-laws are to be kept according to local demands and I do not think a provision of this nature is necessary. I submit, therefore, that in view of what I have said, my friend Professor Kabir will not insist on this amendment.

Mr. PRESIDENT: The question before the House is: that to clause 30 of the Bill, the following proviso be added, namely:—

"Provided that these shall be in the Bengali language and also in any other language desired by at least a third of the membership of the society."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House: is that clause 30 stand part of the Bill.

(The motion was agreed to.)

Clause 31.

Mr. PRESIDENT: The question before the House is: that clause 31 stand part of the Bill.

(The motion was agreed to.)

Clause 32.

Mr. PRESIDENT: Clause 32 stand part of the Bill.

Mr. LALIT CHANDRA DAS: I beg to move: that in clause 32 of the Bill, for the words "as may be prescribed" appearing in the last line, the words "as may be provided for in the bye-laws of the society", be substituted.

Sir, clause 32 runs thus: "A co-operative society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or bye-laws; and shall in respect of such deposits or loans make such provision for the maintenance of fluid resource as may be prescribed".

In this provision we find that the words "as may be prescribed by the rules and bye-laws" have been made definite and clear in the first part. But when we come to the question of the "maintenance of fluid resource", a misgiving arises with reference to the expression "as may be prescribed", as to who is the "doctor" that will make the prescription. So far as this expression goes, I want to make this also definite and clear by substituting the words "as may be provided for in the bye-laws of the society".

With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in clause 32 of the Bill, for the words "as may be prescribed" appearing in the last line, the words "as may be provided for in the bye-laws of the society", be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am sorry that this amendment should have been moved at all. I hope it will be appreciated that the maintenance of fluid resource must be prescribed to safeguard the interests of the depositors and it cannot be left to the discretion of the members themselves, for they will find in no time that the money is gone. I submit that it cannot be left to their whims and the provision that has been made in clause 32 is quite a suitable provision. With these words, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in clause 32 of the Bill, for the words "as may be prescribed" appearing in the last line, the words "as may be provided for in the bye-laws of the society", be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 32 stand part of the Bill.

(The motion was agreed to.)

Clause 33.

Mr. PRESIDENT: Clause 33 stand part of the Bill.

The question before the House is: that clause 33 stand part of the Bill.

(The motion was agreed to.)

Clause 34.

Mr. PRESIDENT: Clause 34 stand part of the Bill.

The question before the House is: that clause 34 stand part of the Bill.

(The motion was agreed to.)

Clauses 35 and 36.

Mr. PRESIDENT: Clauses 35 and 36 stand part of the Bill.

The question before the House is: that clauses 35 and 36 stand part of the Bill.

(The motion was agreed to.)

Clause 37.

Mr. PRESIDENT: Clause 37 stand part of the Bill.

The question before the House is: that clause 37 stand part of the Bill.

(The motion was agreed to.)

Clause 38.

Mr. PRESIDENT: Clause 38 stand part of the Bill.

The question before the House is: that clause 38 stand part of the Bill

(The motion was agreed to.)

Clause 39.

Mr. PRESIDENT: Clause 39 stand part of the Bill.

Mr. HUMAYUN KABIR: I beg to move that in paragraph (*a*) in sub-clause (*1*) of clause 39 of the Bill, after the word "member", the words "or a depositor on the security of his deposit" be inserted.

Sir, clause 39 seeks to limit the class of persons to whom a co-operative society may make a loan. It provides that it shall not make loans to any person other than a member and also certain other restrictions are imposed. My amendment wants slightly to extend the scope of the clause and to allow loans to be made to depositors on the security of their deposit money. I understand that the main object of a co-operative society is to benefit the members; but since it takes deposits from non-members and in this way augments funds, there is no reason why it should not give advantage to such depositors as are non-members. Of course, in certain societies this contingency may not arise but there are societies which take deposits, fixed and otherwise, from non-members. I think it is fair that these societies should grant this facility to non-member depositors. The question of security does not arise, as I think it will be generally admitted that there is no better security in a society or bank than the money security. So, the non-member depositors may be paid loans against their deposits.

With these words, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in paragraph (*a*) in sub-clause (*1*) of clause 39 of the Bill, after the word "member", the words "or a depositor on the security of his deposit" be inserted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I had occasion to explain to the House when the House was discussing clause 8 that this would be one of the subjects which would be regarded as an exception and that powers may be given to Government to deal with individual cases, as they arise, on their merits. Regard being had to the provision of clause 39, I am sure my friend Professor Humayun Kabir will appreciate that it cannot be left as general and vague: it must be ascertained and dealt with as such. I do not propose to extend the giving of loans to non-members, because it is expected that every one should be a member of the society before he can take advantage of the provisions of this Act. But I am not ruling out the suggestion of my friend altogether: the power is given to the Government to deal with individual cases. But as I have submitted, I had opportunity of submitting this point to the House while the House was good enough to deal with clause 8 and showed that it was not necessary to have in this clause a general provision like this. It is not necessary and therefore I oppose it.

Mr. PRESIDENT: The question before the House is: the amendment of Mr. Humayun Kabir that in paragraph (*a*) in sub-clause (*1*) of clause 39 of the Bill, after the word "member", the words "or a depositor on the security of his deposit" be inserted.

(The amendment was negatived.)

Mr. NAZIRUDDIN AHMAD: Sir, I have an amendment No. 220 (*1*) (*a*) in the late list. May I move it?

Mr. PRESIDENT: I have already said that amendments, notices of which do not reach my office in time, will not be taken up in the usual course.

Mr. NAZIRUDDIN AHMAD: In that case, may I move it as a short-notice amendment?

Mr. PRESIDENT: Yes, if there is no objection. But I will not accept the previous notice. Is there any objection to the amendment?

Mr. LALIT CHANDRA DAS: Sir, let us hear the text of the amendment.

Mr. NAZIRUDDIN AHMAD: I beg to move that in clause 39, in sub-clause (*1*) (*b*), the words "whichever may be prescribed" appearing in line 4, be omitted.

Sir, the words "whichever may be prescribed" are redundant. The words previous to these words, namely, "in accordance with the rules" are sufficient. It is purely a formal amendment and I believe there would be no objection to it.

Mr. PRESIDENT: May I take it that there is no objection?

Mr. RANAJIT PAL CHOUDHURY: Sir, I have objection to this amendment.

Mr. PRESIDENT: In that case, I disallow it.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in paragraph (*c*) of sub-clause (*1*) of clause 39 of the Bill, for the words and comma "save with the special sanction of the Registrar given in accordance with the rules" in line 2, the words "in the prescribed manner" be substituted.

Sir, clause 39 deals with restriction on loans being given. The co-operative society shall not make any loans (*a*) to any person other than a member, or (*b*) a member in excess either of the maximum or of the normal credit determined by the society, or (*c*) save with the special sanction of the Registrar given in accordance with the rules, on the security of movable property. I hold views contrary to what (*c*) would suggest.

I submit, Sir, it will not be possible for all co-operative societies to take sanction from the Registrar. There may not be time for that. In case, people want to pawn gold or silver ornaments or jute bales, the question that arises is: whether they should wait for the special sanction of the Registrar for the transaction. Therefore, Sir, in order to facilitate the business of the co-operative society among the members as also for giving loans on security of jute bales and gold, I think sub-clause (*c*) of clause 39 should read as such.

Mr. PRESIDENT: Amendment moved: that in paragraph (*c*) of sub-clause (*1*) of clause 39 of the Bill, for the words and comma "save with the special sanction of the Registrar given in accordance with the rules" in line 2, the words "in the prescribed manner" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, if we are to omit this clause, my friend Mr. Das will appreciate that it will make a society of that nature very unpopular and it will restrict its business, for we desire that on the security of moveable property the societies may be able to advance money. Now, the point taken by Mr. Das is that if they are to wait for Registrar's sanction that will take time. But if my friend will be good enough to look to clause 9 which the House has been good enough to agree to, where it is said that the Registrar will have other persons to assist him and along with that if we look to second schedule of this Bill, it will appear that this is one of the powers which is not designed to be kept with the Registrar, and which may be delegated to other officers who may be appointed to assist him. Therefore, there need be no apprehension that a sanction of this nature which is really necessary to help people in their difficulties as also to help the financing banks, will be ever delayed. I hope my friend sees the point that I have mentioned and will withdraw his amendment; otherwise I shall have the painful necessity of opposing his amendment.

Mr. PRESIDENT: The question before the House is: that in paragraph (*c*) of sub-clause (*1*) of clause 39 of the Bill, for the words and comma "save with the special sanction of the Registrar given in accordance with the rules," in line 2, the words "in the prescribed manner" be substituted.

(The amendment was negatived.)

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move that sub-clause (*2*) of clause 39 of the Bill be deleted.

Sir, I wish to explain the reasons for the suggestion I have just made. I am of opinion that sub-clause (*2*) of clause 39 is not quite consistent with sub-clauses (*e*) and (*f*) of clause 47. Clause 47 says

that any debt or outstanding demand due to a co-operative society by any member shall be a first charge, under sub-clause (*e*) "upon the land purchased or redeemed by such member", under certain circumstances mentioned therein, and under sub-clause (*f*) "upon the house or building so purchased or constructed by such member," under certain circumstances mentioned therein. If this charge automatically attaches according to law, the Provincial Government cannot by general or special order prohibit or restrict the charge. Clause 39, sub-clause (*2*), says: "the Provincial Government may by order prohibit or restrict the lending of money on mortgage of immovable property". If it is meant that no mortgage of any immovable property can be created when such order is promulgated, this would be infructuous, as what would be prohibited or restricted is not the lending of money but the lending of money on the mortgage of immovable property. But if lending of money is not prohibited, such money, when lent for purposes indicated in sub-clauses 47 (*e*) and (*f*), would automatically create a charge on specific immovable property mentioned therein and no order by the Provincial Government can prevent this. All that may be prevented is creating of mortgages on immovable properties other than those mentioned in sub-clauses 47 (*e*) and (*f*). Hence sub-clause 39 (*2*) is to that extent not consistent with clauses 47 (*e*) and (*f*), and, therefore, clause 39 (*2*) either should be deleted or so changed as not to conflict with the provisions of sub-clauses 47 (*e*) and (*f*). Sub-clause 39 (*2*), Sir, also does not say what would be the effect of such prohibition or restriction. It is only an enabling section and does not mention whether a society which violates the order would be acting without jurisdiction or not and the loan would or would not be recoverable at all, or would be recoverable only as a money claim.

Sir, the Hon'ble Minister being a lawyer is accustomed to discuss questions of law. The point I raise is a very nice one, and I, therefore, think it proper to bring to his notice the inconsistency which I have just mentioned. I am glad that my honourable friend Khan Bahadur Saiyed Muazzamuddin Hosain has tabled an identical amendment, and I shall be very glad if he gives out his views on this matter. I hope the Hon'ble Minister will give proper attention to this question and not brush aside the matter.

With these words, Sir, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that sub-clause (*2*) of clause 39 of the Bill be deleted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I have also tabled not a similar amendment but exactly the same amendment. But my object in tabling the amendment is quite different from what

my honourable friend has just stated. My object was that the Provincial Government should not have any power of restricting loans being given on mortgages and the society should have a hand in the matter. That was my object. But on examining the objection raised by Rai Bahadur Manmatha Nath Bose, I find, Sir, that in sub-clause 47 (*e*) and (*f*) there is no question of any mortgage at all. Whether the loan is on mortgage or not, or if money is paid by any co-operative society for redemption of land or for construction of any building on any land, the money so paid by the co-operative society will be the first charge on the land and on the building, irrespective of the fact whether these lands and buildings are mortgaged to the co-operative society or not. For that reason, I find that it does not at all clash with section 47. But as regards my amendment, as the collective wisdom of our party is against it, I am not going to move that.

Mr. HUMAYUN KABIR: Mr. President, Sir, here we find that even though the reasons are different, the conclusion seems to be the same. Though my honourable friend Khan Bahadur Saiyed Muazzamuddin Hosain did not agree with the arguments of the Rai Bahadur, he came to the same conclusion but was persuaded by the collective wisdom of his party to forego his own wisdom in favour of the wisdom of the party. I think, Sir, the point which has been raised by Rai Bahadur has not been answered. In clause 39 (*2*), Government can restrict the lending of money on mortgage. But, as pointed out by the Rai Bahadur, this clause does not give power to stop all transactions by such societies. If any loans are granted under clauses 47 (*e*) and (*f*), this will become a first charge on the assets of the borrower. Now, whether you call that a mortgage or not is not very material: the result will be the same. The payment of the loan will be the first charge, and therefore, if clause 39 (*2*) is not operative, when a society lends money on immovable property, that property is liable to be sold for realising that loan. The result of clauses 47 (*e*) and (*f*) is exactly the same. So, what difference does it make whether you call it a mortgage or not? The point taken by the Rai Bahadur remains, that you only take away the power of the bank or the society to lend money on mortgage of immovable property, but in spite of that, that right remains under clause 47 (*e*) and (*f*); and until that point is met, I fail to see how the amendment can be objected to.

Khan Bahadur NAZIRUDDN AHMAD: Sir, Mr. Humayun Kabir has been pleased to put a certain act of a member of our Party in a bad light. A certain member has given notice of an amendment. That is not necessarily his final judgment. Later on he yields to what he calls the "collective wisdom" of his party. I think, Sir, this is in perfect accord with constitutional procedure. Whatever my friends

from the Congress Benches may say, this practice prevails in all parties and I believe the members of the Congress Party are well aware of it and they also follow it. So far as Mr. Humayun Kabir is concerned, he stands in a peculiarly privileged position. In fact, all his personal wisdom tantamounts to the collective wisdom of his party. His individual wisdom happily exactly coincides with the collective wisdom of his party.

Mr. PRESIDENT: Let us now come to the amendment.

Khan Bahadur NAZIRUDDIN AHMAD: Now, Sir, with regard to the amendment, the sub-clause, which the mover wants to delete, gives power to Government to prohibit certain mortgages. With regard to sub-clauses (*e*) and (*f*) of sub-clause (*1*) of clause 47. I believe the effect of these sub-clauses is that if certain moneys are spent in a particular manner for the benefit of the property, those moneys form a first charge on the property. There is no inherent clash between these sub-clauses and clause 39. Clause 39 prohibits certain mortgages, but these sub-clauses provide that if certain moneys are spent for certain purposes that would form a first charge on the property. Mortgage arises by act of parties, but a charge arises by operation of law. To prohibit a mortgage is not to prevent the accruing of a charge. There is no clash between the two. Sub-clause (*2*), which the Rai Bahadur wants to delete, gives certain powers to the Government but the Government is not bound to exercise those powers. I believe that even if there is a possible clash between the provisions, before acting under sub-clause (*2*) which is now proposed to be deleted, Government will certainly take into account the sub-clauses of clause 47 which the Rai Bahadur thinks are in conflict with it. In these circumstances, there being no inherent or necessary clash between the two, and in any case it being the duty of the Government to so act under sub-clause (*2*) of clause 39 as to prevent a clash with sub-clauses (*e*) and (*f*) of clause 47, the amendment moved by the Rai Bahadur is not called for. But as I have submitted, there is no real clash anywhere and these two provisions are entirely unrelated to one another. They are absolutely independent matters. In these circumstances, I submit that the amendment is not necessitated to prevent a clash. There being no other arguments for the removal of this clause, I think we have to oppose this amendment.

Mr. KAMINI KUMAR DUTTA: Mr. President, Sir, it seems that there is an apparent repugnancy between sub-clause (*2*) of clause 39 and sub-clauses (*e*) and (*f*) of clause 47. By the provision of sub-clause (*2*), any particular society may be prohibited or restricted from lending money on mortgage of immovable property. Apparently, that

particular society which will be so restricted or prohibited, according to the strict interpretation of sub-clause (2) of clause 39, is not in a position to create any mortgage, and the mortgage is certainly a charge. No doubt, there is some distinction between a charge and a mortgage, but that distinction is not with respect to the property affected by the mortgage, but only with respect to persons who deal in that property with or without notice. In the case of a mortgage, a notice is presumed to be necessary, and in the case of a charge, a notice is not presumed to be necessary, but has to be proved. In the case of sub-clauses (*e*) and (*f*) of clause 47, when by the statute itself a first charge is created, I think, even the distinction between a mortgage and a charge will not be applicable, because by sub-clauses (*e*) and (*f*), money advanced for a particular purpose has been made a statutory first charge on that particular land. Now, if a society, prohibited under sub-clause (2) of clause 39, advances money for purposes contemplated in sub-clauses (*e*) and (*f*) of clause 47, the question will arise whether this first charge will be created. Then, again, Sir, there is an apparent clash between sub-clause (2) of clause 39 and sub-clauses (*e*) and (*f*) of clause 47, because in a society which has been prohibited from creating any mortgage, and a mortgage being a charge which advances money for purposes enumerated in sub-clauses (*e*) and (*f*), the question arises as to whether a charge can be created. Clause 39 provides that a society is prohibited from creating that charge; so, what is prohibited is the creation of a charge. But at the same time, sub-clauses (*e*) and (*f*) provide that that charge will be created *ipso facto* by the statute itself. So, there is an apparent repugnancy between sub-clause (2) of clause 39 and sub-clauses (*e*) and (*f*) of clause 47. This matter ought to be cleared up and ought not to be left in this state as it may lead to various troubles.

Khan Bahadur ATAUR RAHMAN: Mr. President, Sir, my friend, Rai Bahadur Manmatha Nath Bose, has tabled this amendment possibly not from the point of view of a veteran co-operator, but from that of a lawyer. I myself am not a lawyer and I do not understand the legal intricacies which have been referred to by that learned advocate. But as an ex-co-operator, I must support the provision as it is embodied in sub-clause (2) of clause 39. As I said the other day, the very essence of the co-operative principle is to be found here in this very clause. If we insist that loans should be given only on a mortgage basis, then where is the co-operation? It is necessary for rural societies, of which only we are thinking here, that they should be able to advance money on personal security and on the security of personal credit, and not on the basis of a mortgage. That is the only way of fostering a spirit of co-operation amongst its members. If instead we provide that the advancing of loans to cultivators by rural

societies should always be by a mortgage of property, then what is the use of calling them co-operative societies. You can call such a society an agricultural loans bank or some such thing and have the Act modelled on that ideal. I would suggest, however, that Government ought to have retained more power in their hands so as to allow a society to advance loans only on consideration of the personal credit of its members and on the consideration of the credit of the society as a whole without any consideration of the individual capacity of its members. Each member ought to have money on the security of the society as a whole. The society as a whole should be taken into consideration in such matters. Loans should be advanced to it if the members' liability is unlimited, and the society will take care of the individual members—that is the true spirit of co-operation. Sir, it would be a death-knell to the co-operative movement, if we always insist that money should be advanced on the basis of a mortgage of the property of the members. Of course, the question of safe investment of money should not be lost sight of, and for that purpose section 47 is there, and the security will see to it.

With these few words, Sir, I oppose this amendment.

Rai Sahib JATINDRA MOHAN SEN: Mr. President, Sir, I rise to support the amendment which has been so lucidly explained by my honourable colleague, Rai Bahadur Manmatha Nath Bose. There appears to be some sort of misunderstanding among members with regard to the scope of the two clauses, namely, clause 39 and clause 47. Clause 39 provides that a co-operative society shall not make loans to certain persons and its sub-clause (2) provides that the provincial Government may, by general or special order,.....prohibit or restrict the lending of money on mortgage of immovable property by any society or class of society other than a co-operative land mortgage bank. The idea seems to be that the lending of money on mortgage is to be allowed only in the case of co-operative land mortgage banks. But it seems that this policy is going to be given a go-by by the provisions in sub-clauses (*e*) and (*f*) of clause 47. Now, Sir, clause 47 provides that if money is taken by a person for the purchase or redemption of land. the land so purchased or redeemed automatically will form a first charge for the loan; and sub-clause (*f*) says that if any money is taken as loan for the purpose of construction of any house or building or any portion thereof or in respect of the supply of materials for such construction, such house or building will automatically become a first charge on the loan. So, if these two provisions are there, a person will be able to create a mortgage without actually entering into it, because a mortgage or charge will nevertheless be created if it is only mentioned that the money is required for the purchase or construction of a house. What the propounders of the Bill want to avoid by prohibiting the creation of a mortgage by an ordinary society other than a

land mortgage society, will be conferred by sub-clauses (*e*) and (*f*) of clause 47 in an indirect way. So, these two things ought to be separated. If it is the intention of Government that no mortgage should be created, then sub-clauses (*e*) and (*f*) should be so moulded that such charges might not be created on properties which are purchased or redeemed or on houses or buildings which are constructed. In that light, I think, it would be better to accept the amendment which has been proposed by Rai Bahadur Manmatha Nath Bose, because it would avert future troubles.

Khan Bahadur M. SHAMSUZZOHA: Mr. President, Sir, I beg to oppose the amendment moved by my friend, Rai Bahadur Manmatha Nath Bose. If we look to the definitions and the underlying purposes of the present law, we shall clearly find that a demarcation has been made between an ordinary co-operative society and a co-operative society which has been defined as a land mortgage bank in this Bill. A land mortgage bank has been defined to be a co-operative society, the principal object of which would be to advance loans on security of lands. An ordinary co-operative society will deal with matters which do not concern loans secured by mortgages. So, we clearly find that Government have drawn a distinction between these two classes of society. Under sub-clause (*2*) of clause 39, Government have taken care to see that an ordinary co-operative society will not give loans on the security of property, loans on a security basis being dealt with only by land mortgage banks. Therefore, Government will by rules prohibit or restrict the lending of money by ordinary societies on the basis of mortgage. Clause 39, therefore, enables a co-operative society other than a land mortgage bank to give loans without any security which, I think, does not conflict with section 47, sub-clauses (*e*) and (*f*). The loan to be given by an ordinary co-operative society will be a loan on a voluntary basis, but the loan that will be given under section 47 will be under the land mortgage bank. There is a clear distinction between these two kinds of societies, and I hope my lawyer friends will agree on a second thought that there is no apparent conflict between sub-clause (*2*) of clause 39 and sub-clauses (*e*) and (*f*) of clause 47.

Mr. F. A. STARK: Sir, the mover of this amendment considers that there is a conflict between clause 39(*2*) and clause 47 (*e*) and (*f*) and therefore he adopts, to my mind, the extraordinary step of moving for the deletion of clause 39(*2*). Clause 39(2) is a valuable clause because it gives Government the power to prevent the troubles experienced in the past in giving out loans on long terms, as has been explained by Khan Bahadur Ataur Rahman, with the result that assets have become frozen and dues have accumulated. I think this is a very necessary power, more particularly in view of the fact that Government have started land mortgage banks and are endeavouring to get

this highly specialised form of advancing money concentrated in specialised institutions. As regards the apparent or what appears to be a conflict between the two sections, I do not think it really exists at all. If you prohibit lending money on mortgage, it appears to me you prohibit lending money in a form which will create a charge on property.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I do not desire to repeat the arguments which have been placed before this House by several members with respect to the law point that has been raised in connection with the discussion of this amendment, but I am definitely of opinion that the Provincial Government should not be given the power of prohibiting or restricting the lending of money on mortgage of immovable property to the co-operative society. Sir, by sub-clause (*c*) of clause 39 a sort of clog has been put into the business of the co-operative societies in the matter of lending money, namely, that before they can lend money on the security of the moveable property, previous sanction of the Registrar or his Assistants is to be taken. Then again, by sub-section (*2*), power is being given to the Provincial Government to prohibit the lending of money on mortgage of immovable property by any co-operative society or class of society. I think, Sir, that would be putting a clog in the business of the co-operative societies or putting some sort of a ban on the co-operative societies to thrive. Khan Bahadur Ataur Rahman was of the opinion that the co-operative societies stand for co-operation and that money should be advanced on personal credit to cultivators. But I desire to point out to the Khan Bahadur that the co-operative societies cannot advance money to cultivators other than members of the societies themselves. They must be members; to non-members, even if they be cultivators, co-operative societies cannot advance money. Then again, if the Khan Bahadur will look to sub-section (*b*) of section 39, he will find that the maximum credit of individual members of a co-operative society has been fixed so that whenever money is lent, the money is not lent on the credit of the co-operative society as a whole but on the credit of a particular member of that society whose credit is to be fixed by the members themselves. Now, if a member of a co-operative society will run to a co-operative land mortgage bank and get money therefrom by mortgaging his own land, what will be the position with respect to the money which will be lent to that member as a member of the co-operative village society? I think, Sir, some sort of latitude should be given to the co-operative societies to lend out their monies either on mortgage of the immovable property of the debtor or on the security of the movable property. If power is given to the Provincial Government to prohibit or restrict the lending of money on mortgage of immovable property and if previous sanction of the Registrar or his Assistants is

necessary for lending money on the security of movable property, I submit the business of the co-operative societies will come to a deadlock and these will not thrive.

With these words, Sir, I support the amendment which has been moved by Rai Bahadur Manmatha Nath Bose.

Mr. NUR AHMED: Sir, I oppose the amendment. I do not think there is any conflict between sub-clause (*2*) of clause 39 and sub-clauses (*e*) and (*f*) of clause 47. My humble submission is that the most important fact has been overlooked in considering this amendment, and that is the difference which is made between the word "charge" and the word "mortgage". This sub-clause says that no mortgage shall be made if the Provincial Government prohibit, but it does not mention the word "charge". The definitions of the word "charge" and also the word "mortgage" have been given in the Transfer of Property Act. There is difference between the two and also there are different legal meanings of these two words. While in case of a mortgage, there must be parties and there must be a legal document, in the case of a charge, no such thing is essential. Considering the matter from that point of view, no conflict will be found. This sub-clause is very clear. The important word "charge" is not used, only the word "mortgage" is used. In this view of the matter, I oppose this amendment.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am extremely sorry that there has been some amount of misapprehension about the proper appreciation of the two clauses, namely, sub-clause (*2*) of clause 39 and sub-clauses (*e*) and (*f*) of clause 47. Sir, two of my honourable friends for whom personally I have the highest regard have said that there is an apparent conflict, or to quote Rai Bahadur Manmatha Nath Bose, there is inconsistency in the two provisions sought to be made in these two sub-clauses. My friend Mr. Kamini Kumar Dutta says that there is an apparent repugnancy between the one and the other. Now, Sir, answer has been given by Khan Bahadur Ataur Rahman and my other friends, and lastly by Mr. Stark, all of whom have pointed out to the House that the powers sought to be taken by Government under sub-clause (*2*) of clause 39 are absolutely necessary. If you be good enough to look to the provisions of clause 39 as a whole, you will find that this is a clause which seeks to fix the normal and maximum credit of the members of a society. Therefore, Sir, first of all we have got to find out the credit-worthiness of the member. When that is done, the question of the collective credit-worthiness of the society will come. This point has been rightly emphasised by my esteemed friend Khan Bahadur Ataur Rahman.

Now, Sir, if along with that they are to be given the liberty of lending money on the security of lands, I am afraid, Sir, we will get into the old mire again. We do not desire that societies of this nature which will be called upon to answer to the seasonal demands of their members should be given the power to deal with their members on the basis of mortgage. My friend, Mr. Stark has pointed out that in this Bill itself, Chapter XI deals with that class of debts known as mortgages to cater to the needs of the people on that basis through land-mortgage co-operative banks. Therefore, Sir, there is no necessity of giving this power to advance money to the members of the societies on the security of lands so far as these rural societies are concerned. The question now is whether this is a power which really comes into conflict with the provisions incorporated in sub-clauses (*e*) and (*f*) of sub-clause (*1*) of clause 47. If those two clauses are just perused for a moment, it will be appreciated, Sir, that they are meant for specific purposes, namely, when money is taken for the purpose of doing some specific work, then to that extent it will be said to be a first charge upon the land.

Sir, I will not detain the House with a long explanation but I would just request the House to peruse for a moment the provision of sub-clause (*e*) of sub-clause (*1*) of clause 47, where it is said that if such debt or demand is due in respect of any loan for the purchase or redemption of land, the charge will be upon the land purchased or redeemed by such member, and so forth. Therefore, Sir, if a loan is taken for this particular purpose, then to that extent it will be said to be a first charge upon the land. Then, with respect to sub-clause (*f*) again, if a loan is taken for effecting repairs or erecting a building, to that extent it will be a first charge upon the house which is repaired or upon the building which is erected. Therefore, Sir, the difficulty that is expressed by some of my honourable friends does not really arise, for the specific purposes for which a loan is advanced, to that extent it is said to be a first charge.

Now, with respect to my friend, Mr. Kabir. I am extremely sorry that he observed that mortgage is a first charge. Mortgage is a charge but is not the first charge. He will be good enough to find that under the ordinary law, rent is said to be the first charge. We have made provision in clause 47 where it is stated that subject to any claim of the Provincial Government in respect of land revenue or any sum recoverable as land revenue or as a public demand, any loan which is due to a co-operative society shall be a first charge in respect of the particular subject, namely, when something is done for a specific purpose with a loan of this nature. I submit, therefore, there is no conflict and this should not have disturbed two of my esteemed friends who have given so much time and thought to this question.

I submit, Sir, the explanation that I have given should clear up the apprehensions under which my friends are labouring and I would only beg of my friend Rai Bahadur Manmatha Nath Bose to withdraw the amendment. Failing that, I shall have the painful necessity of opposing it.

Mr. PRESIDENT: The question before the House is: that sub-clause (*2*) of clause 39 of the Bill be deleted.

A division was then demanded and taken with the following result:—

AYES—14.

Ali, Mr. Altaf.
Bose, Rai Bahadur Manmatha Nath.
Chakraverti, Mr. Shrish Chandra.
Dar, Mr. Lalit Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Pal Choudhury, Mr. Ranajit.
Ray, Rai Sahib Jogendra Nath.
Roy, Mr. Amulyadhone.
Roy Chowdhury, Mr. Birendra Kishore.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—31.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Nur.
Aziz, Khan Sahib Abdul.
Barua, Mr. Dhirendra Lal.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqui Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Ferguson, Mr. R. W. N.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Lamb, Sir T.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Ross, Mr. J. B.
Roy, Rai Bahadur Radhica Bhusan.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, The Hon'ble Sir Bijoy Prasad.
Stark, Mr. A. F.
Talukdar, Dr. Kasiruddin.

Mr. PRESIDENT: Order, order. The House has divided. For the amendment—14; against the amendment—31: the amendment is, therefore, negatived.

Khan Bahadur NAZIRUDDIN AHMAD: Mr. President, Sir, I beg to move that in clause 39 of the Bill, in sub-clause (*2*), after the word "affected" in line 2, the word "thereby" be inserted.

Sir, I want to insert the word "thereby", because it has been omitted accidentally.

Mr. PRESIDENT: Amendment moved: that in clause 39 of the Bill, in sub-clause (*2*), after the word "affected" in line 2, the word "thereby" be inserted.

The question before the House is: that in clause 39 of the Bill, in sub-clause (*2*), after the word "affected" in line 2, the word "thereby" be inserted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 39 of the Bill, in sub-clause (*2*), for the word "society" in line 6, the word "societies" be substituted.

Mr. PRESIDENT: The question before the House is: that in clause 39 of the Bill, in sub-clause (*2*), for the word "society" in line 6, the word "societies" be substituted.

(The amendment was agreed to.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, instead of the printed amendment standing in my name, I ask for your permission to move a short-notice amendment. The printed amendment is rather more drastic; I want to make it less drastic.

Mr. PRESIDENT: I am quite willing to allow you to do so, if there is no objection.

Mr. LALIT CHANDRA DAS: We should like to hear the honourable member first before we decide whether we should raise any objection.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move: that after sub-clause (*2*) of clause 39, the following sub-clause be inserted:—

"(*3*) When any money is lent on mortgage of immovable property by a society other than a co-operative land mortgage bank, the provisions of sections 98, 99 and 115 shall apply to such mortgage as if, in those sections, for the words 'co-operative land mortgage bank' and 'bank' the words 'co-operative society' and 'society' were substituted respectively."

Sir, the provisions contained in clauses 98, 99 and 116 are provisions dealing with distraint. I only wish that where a society gives money on mortgage, the provisions contained in those clauses should apply to such mortgaged property. Such a society should have power to apply to the Registrar for a certificate to have the standing crop on a mortgaged land sold.

Mr. LALIT CHANDRA DAS: After hearing the honourable member, Sir, I rise to object to his moving this short-notice amendment.

Mr. PRESIDENT: In that case, I shall not place it before the House.

The question before the House is: that clause 39, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 40.

Mr. PRESIDENT: The question before the House is: that clause 40 stand part of the Bill.

(The motion was agreed to.)

Clause 41.

Mr. PRESIDENT: The question before the House is: that clause 41 stand part of the Bill.

(The motion was agreed to.)

Clause 42.

Mr. PRESIDENT: Clause 42 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 42 of the Bill, in sub-clause (*2*), the comma occurring after the word "society" in line 2, be omitted.

Mr. HUMAYUN KABIR: Sir, there is no comma after the word "society".

Mr. PRESIDENT: Yes, there is a comma in sub-clause (*2*).

The question before the House is: that in clause 42 of the Bill, in sub-clause (*2*), the comma occurring after the word "society" in line 2, be omitted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 42 of the Bill, in sub-clause (*2*), after the word "change" in line 4, the words "in which such society is a party" be inserted.

Sir, I submit that this makes the text of the clause clear.

Mr. PRESIDENT: The question before the House is: that in clause 42 of the Bill, in sub-clause (*2*), after the word "change" in line 4, the words "in which such society is a party" be inserted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 42, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 43.

Mr. PRESIDENT: Clause 43 stand part of the Bill.

Rai Sahib JATINDRA MOHAN SEN: I beg to move: that in sub-clause (*1*) of clause 43 of the Bill, for the word "Registrar" occurring in line 3, the words "Provincial Government" be substituted.

Sir, clause 43 provides for the previous approval of the Registrar for changing the form of liability; but my amendment is intended to require the previous approval of the Local Government. My reason is that the change in the form of liability is a serious and important matter and should not be left to the discretion of the Registrar alone. Intricate questions may arise with regard to the change in the form of liability and, therefore, I have proposed that previous approval of the Local Government should be obtained.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 43 of the Bill, for the word "Registrar" occurring in line 3, the words "Provincial Government" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose this amendment. I think, Sir, my friend, the Rai Sahib will be good enough to appreciate when I say that the Registrar as the head of the department will be in a better position to find out how the internal affairs of a society are being managed than the Provincial Government. So, I do not think there is any justification for this change. If there is any apprehension, my honourable friend will kindly look to clause 134 which gives the Local Government power to deal with any illegality or irregularity committed by the Registrar. I submit, in these circumstances, that there is no necessity for this amendment, and I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 43 of the Bill, for the word "Registrar" occurring in line 3, the words "Provincial Government" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 43 stand part of the Bill.

(The motion was agreed to.)

Clause 44.

Mr. PRESIDENT: Clause 44 stand part of the Bill.

Khan Bahadur ATAUR RAHMAN: I beg to move that after paragraph (*b*) in sub-clause (*2*) of clause 44 of the Bill, the following new paragraph be added, namely:—

"(*c*) the object of taking the loan."

Sir, the law has provided that a member intending to take loan should send to the society a notice in writing stating his intention for taking the loan and the amount of loan for which he intends to apply. But, what I want is that he should also state the reason why he is taking this loan, so that the society will be in a position to know the object for which he wants the loan and to judge whether it is a reasonable object or a frivolous object, which might endanger the whole society.

I hope the House will accept my amendment.

Mr. PRESIDENT: Amendment moved: that after paragraph (*b*) in sub-clause (*2*) of clause 44 of the Bill, the following new paragraph be added, namely:—

"(*c*) the object of taking the loan."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am prepared to accept the amendment. But I think a little bit of verbal change is necessary to make it complete, namely, that the word "and" at the end of the line (*a*) be deleted, and secondly for the full-stop at the end of line (*b*) a comma and the word "and" be substituted.

Mr. PRESIDENT: The question before the House is: the amendment of Khan Bahadur Ataur Rahman that after paragraph (*b*) in sub-clause (*2*) of clause 44 of the Bill, the following new paragraph be added, namely:—

"(*c*) the object of taking the loan.",

with a little verbal change suggested by the Hon'ble Minister, viz., that the word "and" occurring at the end of line (*a*) be deleted and for the full-stop at the end of line (*b*) a comma and the word "and" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 44, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 45.

Mr. PRESIDENT: The question before the House is: that clause 45 stand part of the Bill.

(The motion was agreed to.)

Clause 46.

Mr. PRESIDENT: Clause 46 stand part of the Bill.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that clause 46 of the Bill be omitted.

Sir, clause 46 of the Bill deals with the question of limitation. It runs as follows:—

> "Notwithstanding any of the provisions of the Indian Limitation Act, 1908, the period of limitation for the institution of a suit to recover any sum, including interest thereon, due to a co-operative society by a member thereof shall be computed from the date on which such member dies or ceases to be a member of the society."

Sir, I think this is an unnecessary encroachment upon the provisions of the Limitation Act (Act IX of 1908). Now Sir, for the purpose of carrying on business regularly, I think the period of time that is given in the Limitation Act is 3 years from due date, and then money becomes recoverable. Now, if this money is allowed to continue as a debt of the member till the member ceases to be a member of the co-operative society, it may be that the debt of the member will continue during the life time of the member. He will not pay. That is a thing which is not good for any co-operative society. I think the provision which is in the Limitation Act, namely, that a sum becomes due and becomes recoverable by suit after 3 years from due date, is a very wholesome provision which facilitates the collection of all debt; but if a provision like the one in question is allowed to continue in the Bill, then Sir, a debt will continue for as long as a member continues to be a member of the co-operative society and this will hamper the business of the society.

With these words, I move that clause 46 of the Bill be deleted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, this clause 46 is based upon the experience of the working of many societies of this unfortunate province. We have known of cases where members have wilfully allowed a debt to be barred and the liability has fallen upon the society or upon the solvent members of the society. So long as a member of this type continues to be a member of the

managing committee of that society, it is not possible for the society to take action against him. To take action against a member of that nature is possible when he cuts off his connection with the society. Therefore, only to see that the finances of such societies are not jeopardised, we have provided for this clause so that as soon as it is possible for the society to take action against such members, it may be so done. From that point of view, we have thought of the clause. It is not to keep any member under perpetual bondage, but it is to see that by the activities of the members of that type the finances of the society are not jeopardised.

Sir, I oppose this amendment.

Mr. PRESIDENT: The question before the House is: that clause 46 of the Bill be omitted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 46 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: Consideration of clause 47 may be postponed for the time being.

Clause 48.

Mr. PRESIDENT: Clause 48 stand part of the Bill.

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move that in sub-clause (*4*) of clause 48 of the Bill, for the word "sixty" in line 2, the word "seventy-five" be substituted.

Sir, my submission is this that by clause 60 it is intended to obtain the consent of three-fifths of the members. But, Sir, we have seen in several cases that a condition like this causes hardship in realising the water-rate. Therefore, I have tried to make it three-fourths of the entire number so that the majority of the people will be found willing to contribute to it. In that case, others who are unwilling will also be compelled to pay.

Therefore, I submit, Sir, that this suggestion may be accepted and I commend it to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*4*) of clause 48 of the Bill, for the word "sixty" in line 2, the word "seventy-five" be substituted.

Khan Bahadur ATAUR RAHMAN: Sir, I beg to oppose this amendment. I would rather request, if possible now, to reduce the proportion from 60 to 50 per cent. Those who are aware of the difficulties of irrigation nowadays cannot but advocate the speedier method of organising societies for irrigation purpose and if that object is ever to be fulfilled, then it should be made as easy as possible. It is very difficult to get together even 60 per cent. of the people who will be affected by the project. I am surprised that my friend the Rai Bahadur who has got equal, rather more interest than myself, for irrigation would like to raise this number from 60 per cent. to 75 per cent. I hope the Rai Bahadur will reconsider the difficulty pointed out by me and withdraw his amendment.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am sure my honourable friend Rai Bahadur will appreciate that it is on the basis of the advantage that will be gained by a person of this nature that a levy is sought to be made from him. Sir, when we expect people of this nature to come and join such society and to become its members, they keep themselves away only with a feeling that whatever benefit will be derived by their neighbours will come to them and it is not necessary for them to become members. It is not to penalise but on the basis of the profit that will be secured to them that this levy is suggested. I really appreciate the force of the argument advanced by Khan Bahadur Ataur Rahman. But we must be sure that reasonable benefit is secured to them, and so while opposing the amendment of my honourable friend the Rai Bahadur, I am sorry it is not possible to reduce the amount of benefit that can be secured to them, to justify us in levying a rate.

On these grounds, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*4*) of clause 48 of the Bill, for the word "sixty" in line 2, the word "seventy-five" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 48 stand part of the Bill.

(The motion was agreed to.)

Clause 49.

Mr. PRESIDENT: The question before the House is: that clause 49 stand part of the Bill.

(The motion was agreed to.)

Clause 50.

Mr. PRESIDENT: Clause 50 stand part of the Bill.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in clause 50 of the Bill, after the word "capital" occurring in line 2, the following be inserted, namely:—

"and provident fund, if any, created under section 59."

Sir, section 50 deals with charge and set off in respect of share or interest of members. Now, by section 59 of the Bill, the members have been given the right to create provident fund for themselves. That would escape the charge.

With these words, I move my amendment.

Mr. PRESIDENT: Amendment moved: that in clause 50 of the Bill, after the word "capital" occurring in line 2, the following be inserted, namely:—

"and provident fund, if any, created under section 59."

Khan Bahadur NAZIRUDDIN AHMAD: Sir, with regard to the provident fund, the universal rule is that it is not attachable or saleable in any way. Provident fund is an encouragement for officers to save money and if we accept this amendment it will be creating a very new innovation.

With these few words, Sir, I oppose this amendment.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have nothing further to add to what my friend Khan Bahadur Naziruddin Ahmad has said. Sir, provident fund is always non-attachable and therefore we have kept it off from the provision.

Mr. PRESIDENT: The question before the House is: that in clause 50 of the Bill, after the word "capital" occurring in line 2, the following be inserted, namely:—

"and provident fund, if any, created under section 59."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 50 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: I am informed that Government is not prepared to continue further business on this Bill to-day. The House is adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 4th September, 1940.

Members absent.

The following members were absent from the meeting held on the 3rd September, 1940:—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Bankim Chandra Dutt.
(4) Mr. Narendra Chandra Datta.
(5) Khan Bahadur Alhadj Khwaja Muhammad Esmail.
(6) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(7) Maulana Muhammad Akram Khan.
(8) Mr. W. B. G. Laidlaw.
(9) Mr. Naresh Nath Mookerjee.
(10) Dr. Radha Kumud Mookerji.
(11) Mr. Sachindra Narayan Sanyal.

B. G. Press—1940-41—8249A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

* THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 4th September, 1940, at 2-15 p.m. being the twenty-third day of the Second Session, pursuant to section 62(*2*) (*a*) of the Government of India Act, 1935.

* Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

The Bengal Co-operative Societies Bill, 1940.

Mr. PRESIDENT: The House will now resume consideration of the Bengal Co-operative Societies Bill, 1940.

Clause 51.

Mr. PRESIDENT: Clause 51 stand part of the Bill.

The question before the House is: that clause 51 stand part of the Bill.

(The motion was agreed to.)

Clause 52.

Mr. PRESIDENT: Clause 52 stand part of the Bill.

The question before the House is: that clause 52 stand part of the Bill.

(The motion was agreed to.)

Clause 53.

Mr. PRESIDENT: Clause 53 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 53 of the Bill, in sub-clause (*1*), for the word "society" occurring in line 3, the word "societies" be substituted.

Mr. PRESIDENT: The question before the House is: that in clause 53 of the Bill, in sub-clause (*1*), for the word "society" occurring in line 3, the word "societies" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 53 of the Bill, in sub-clause (2), for the word "society" in line 2, the word "societies" be substituted.

Mr. PRESIDENT: Amendment moved: that in clause 53 of the Bill, in sub-clause (2), for the word "society" in line 2, the word "societies" be substituted.

The question before the House is: that in clause 53 of the Bill, in sub-clause (2), for the word "society" in line 2, the word "societies" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 53, as amended, stand part of the Bill.

(The amendment was agreed to.)

Clause 54.

Mr. PRESIDENT: Clause 54 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 54 of the Bill, in sub-clause (1), for the words "its creditors", in line 3, the words "its creditor or creditors" be substituted.

Mr. PRESIDENT: Amendment moved: that in clause 54 of the Bill, in sub-clause (1), for the words "its creditors" in line 3, the words "its creditor or creditors" be substituted.

The question before the House is: that in clause 54 of the Bill, in sub-clause (1), for the words "its creditors" in line 3, the words "its creditor or creditors" be substituted.

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 54, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 55.

Mr. PRESIDENT: Clause 55 stand part of the Bill.

Mr. LALIT CHANDRA DAS: I beg to move that in clause 55 of the Bill, in paragraph (a), after the word "or" the words "with any Scheduled Bank subject to such conditions as may be prescribed" be added.

Sir, clause 55 relates to the investing of funds and therein it is laid down—"A co-operative society may invest or deposit its funds in a Government Savings Bank; or in any of the securities specified in section 20 of the Indian Trusts Act, 1882; or with the sanction of the Registrar, in the shares or debentures, or on the security, of any other co-operative society with limited liability; or in any other manner prescribed". I desire that to this may be added the words "with any Scheduled Bank subject to such conditions as may be prescribed", to make it complete. It is a reasonable amendment and I hope the Hon'ble Minister will see his way to accept at least one of the amendments sponsored from this side of the House.

Mr. PRESIDENT: Amendment moved: that in clause 55 of the Bill, in paragraph (*a*), after the word "or" the words "with any Scheduled Bank subject to such conditions as may be prescribed" be added.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am sorry I have to oppose this amendment. I would not have liked to inflict any speech on it. Indeed, I should have been very happy if I accept some of the advice with regard to this Bill tendered by the Council which we take to be the House of Elders.

My friend Mr. Lalit Chandra Das has said rather in an appealing tone that Government would be well-advised to accept at least one amendment moved from their side of the House. Sir, it is my painful duty to point out to this House that so far as amendments tabled by my friends on the other side of the House are concerned, they do not stand in the nature of sound advice from them; that is the difficulty we are confronted with. Apart from that, so far as the substance of the amendment is concerned, it will perhaps be appreciated when I say that, if we were to take away the money from the co-operative society and invest it in a Scheduled Bank, it will be difficult to develop the co-operative spirit. Scheduled Banks, as is known to everybody, are profiteering concerns. Now, Sir, our desire and attempt is to keep as much money as possible in the movement itself, so that there may not be any financial difficulty for the society. It may be that the society may need money and it is from that point of view we thought it fit to have the clause drafted in this way so that we may be able to keep the money in the movement itself.

So far as sub-clauses (*a*) and (*b*) are concerned, it is just to earn the confidence of the investing public that a portion of the surplus money will be invested in these Government concerns, so that the public will feel that their money is absolutely safe. In the circumstances, I do not think this amendment is necessary and I oppose it.

Mr. PRESIDENT: The question before the House is: that in clause 55 of the Bill, in paragraph (*a*), after the word "or" the words "with any Scheduled Bank subject to such conditions as may be prescribed" be added.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 55 of the Bill, in paragraph (*c*) the comma occurring after the word "debenture" in line 2, be omitted.

Mr. PRESIDENT: Amendment moved: that in clause 55 of the Bill, in paragraph (*c*) the comma occurring after the word "debenture" in line 2, be omitted.

The question before the House is: that in clause 55 of the Bill, in paragraph (*c*) the comma occurring after the word "debenture" in line 2, be omitted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 55 of the Bill, in paragraph (*c*), the comma occurring after the word "security" in line 2, be omitted.

Mr. PRESIDENT: Amendment moved: that in clause 55 of the Bill, in paragraph (*c*), the comma occurring after the word "security" in line 2, be omitted.

The question before the House is: that in clause 55 of the Bill, in paragraph (*c*), the comma occurring after the word "security" in line 2, be omitted.

(The amendment was agreed to.)

Mr. KAMINI KUMAR DUTTA: I beg to move that in clause 55 of the Bill, the following proviso be added at the end, namely:—

"Provided that where, with the sanction of the Registrar, a co-operative society invests or deposits its funds in any other co-operative society with limited liability, it shall be obligatory on the Registrar to inform the persons subordinate to him or acting under his authority who are in administrative charge of these societies of such transactions and to send copies of such information to persons appointed to assist him in the area or areas concerned for verification at the time of audit."

Mr. PRESIDENT: Amendment moved: that in clause 55 of the Bill, the following proviso be added at the end, namely:—

"Provided that where, with the sanction of the Registrar, a co-operative society invests or deposits its funds in any other co-operative society with limited liability, it shall be obligatory on the Registrar to inform the persons subordinate to him or acting under his authority who are in administrative charge of these societies of such transactions and to send copies of such information to persons appointed to assist him in the area or areas concerned for verification at the time of audit."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am entirely at one with the feeling which the Hon'ble the Leader of Opposition had in view in moving this amendment. It aims at putting a check,— I believe that is his idea,— upon mismanagement of the finances of a particular society when it tries to invest them in any other co-operative society. The amendment suggests that when such transaction takes place, such instances should be brought to the notice of the Registrar. I would only appeal to him, in view of his experience as the Chairman of one of the leading central banks of the province, just to consider whether it is a practical proposition. Sir, when there is a transaction of this nature between one society and another, there will certainly be rules and regulations to govern the same. If that is so, I think there ought not to be any apprehension in the mind of my honourable friend so as to induce him to suggest that every such transaction should be brought before the Registrar. Now, the officers who may be there will have to deal with a large number of societies. It will be impossible, I submit, when one is called upon to deal with a large number of such societies, to keep information of every such individual case. But, Sir, we are not unmindful of various unfortunate things that have happened in the past and it is just to prevent a thing of that nature from happening in future that we are contemplating to frame definite rules. I submit what is suggested by this amendment is an impossible task for us to undertake, and I hope my honourable friend will be good enough to appreciate the point of view that I have put forward before the House and will feel inclined to withdraw his amendment. Otherwise, I will have to oppose it.

Mr. PRESIDENT: The question before the House is: that in clause 55 of the Bill, the following proviso be added at the end, namely:—

"Provided that where, with the sanction of the Registrar, a co-operative society invests or deposits its funds in any other co-operative society with limited liability, it shall be obligatory on the Registrar to inform the persons subordinate to him or acting under his authority

who are in administrative charge of these societies of such transactions and to send copies of such information to persons appointed to assist him in the area or areas concerned for verification at the time of audit."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 55, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 56.

Mr. PRESIDENT: Clause 56 stand part of the Bill.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in clause 56 of the Bill, after the words "reserve fund" wherever they occur, the words "and a bad debt fund" be inserted.

Sir, section 56 deals with reserve fund to be created out of the profits if derivable from transactions. Side by side also there may be a bad debt fund to be sure of the position of the co-operative society.

With these words, Sir, I move my amendment.

Mr. PRESIDENT: Amendment moved: that in clause 56 of the Bill, after the words "reserve fund" wherever they occur, the words "and a bad debt fund" be inserted.

Mr. HUMAYUN KABIR: Mr. President, Sir, I have two amendments which together were almost identical with the amendment which has been moved by Mr. Das. I hope the Hon'ble Minister will see the necessity of an amendment of this type. In many cases, co-operative societies have at one time made good profits and these profits were sometimes accumulated in reserve fund. But on account of a lack of bad debt fund there have in many cases been difficulties afterwards. When the co-operative societies have to deal with such a large number of debtors, it is inevitable that there will be occasional cases of bad debts. Without any reflection on the department, I think that the department can never prevent the occurrence of such bad debts from time to time. Even with the utmost vigilance these are likely to occur at times and it is therefore desirable that when there are profits, out of these profits a certain proportion should be reserved in order to guarantee the depositors against loss on account of such bad debts.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I appreciate the points that have been made while two of my honourable friends have moved their amendments asking Government to include a

bad debt fund along with a reserve fund for every co-operative society. (Mr. RANAJIT PAL CHOWDHURY: But you should be consistent in your opposition.) I think this is not the proper occasion when I should reply to such interjections of another friend of mine. I do not think it be proper to do so.

Sir, it will be appreciated that the reserve fund of a co-operative society is intended to be built out of the profits actually realised. That will show the credit-worthiness of such a society. Reserve fund is also intended to meet emergencies unforeseen and unknown at the time when the reserve fund is being built up. If it so happens in future that a part of that money is to be spent or some money is to be raised on the reserves of the society that will certainly be one of the objects thought of by the amendment moved by two of my honourable friends. If along with the creation of a reserve fund we want to have another fund in the name of bad debt fund, there will be nothing left for payment towards charitable purposes or educative purposes or for the distribution of dividends. I submit, Sir, that regard being had to the activities of these societies, if we have too many statutory funds of this nature it will be difficult for these societies to meet all their obligations which are sought to be cast upon them by means of legislation. I submit, Sir, we are not unmindful of this fund as has been suggested by these two friends of mine, but I submit that the reserve fund that we have thought of in this clause will also meet a contingency or emergency of this nature which has been indicated in these two amendments.

I hope, Sir, this will satisfy my friends and either they may be good enough to withdraw or I shall oppose.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I am sorry I have to oppose this amendment. As Mr. Humayun Kabir has also supported the amendment and has advanced some arguments, it is our duty to submit to the House a few reasons which have induced us to oppose the same. Sir, I submit that the purposes of a reserve fund are wide enough to cover a bad debt fund. In fact, a reserve fund is a bad debt fund and something more. It is, therefore, not necessary to create another separate bad debt fund. There are too many calls on the profits of a society and if we go on multiplying funds like this, very little will be left out of the profits for the distribution of dividends and for other useful purposes. If we create a separate bad debt fund, it will rather imply that the reserve fund is rather inflated or bogus fund. The real remedy lies in the prevention of granting indiscriminate loans which are really responsible for bad debts. Another remedy lies in determining the assets. If there are bad debts, the assets must take them into account. Assets must always mean clear, safe and realizable assets. It is notorious that the assets of many societies do not take account of bad debts. The creation

of a bad debt fund is a pleasing but misleading remedy. The audit must look for bad debts and deduct them from the paper assets. If loans are properly granted, if they are punctually realized, if correct assets are shown by deducting the bad debts, if the net profits are thus correctly worked out, and lastly if the audit is properly done, the need for a bad debt fund will entirely vanish. But if the assets are not real assets, then no amount of bad debt fund will make the society safe.

Then, Sir, I have another reason for opposing this amendment. It is the distinct provision of a rule-making power. Under clause 139, Government has taken power to make rules as to the application of the reserve fund to various purposes and that is provided for in paragraph (*xl*) of sub-clause (*2*) of clause 139. This paragraph (*xl*) says that the Government may prescribe by rules "the proportion which shall be annually carried under section 56 to the reserve fund from the net profits of a co-operative society, the extent to which a society may use its reserve fund in its business and the method in which the reserve fund shall be invested." So, Sir, it would appear that we need not create any separate bad debt fund. The reserve fund may be utilised with the help of these rules for the purpose, and this will meet all the needs of caution. In these circumstances, I submit that though we sympathize with the object which has prompted this amendment, I think the object would be amply satisfied by concentrating our attention on the soundness of the reserve fund instead of creating a separate fund which will lead to multiplicity of funds. The amendments have a good purpose behind them and the purpose will be amply served by the rule-making power and the creation of a sound reserve fund. But if the assets contain bad debts which are attempted to be liquidated by the creation of a bad debt fund, it will conceal the real financial weakness of the society and will give a misleading appearance of strength and solidity to the credit structure of the society. From the accounting point of view, it would be simpler and safer to deduct the bad debts from the paper asset of the society and show the real asset in the balance-sheet. This would be safer, simpler and more straightforward and will show in a direct and open manner the weakness, if any, of the financial condition of the society. A concealment of the real weakness of the society will be misleading and might easily prove disastrous to the solvency of the society.

Mr. NARESH NATH MOOKERJEE: Sir, I merely wish to point out to the House that the Hon'ble Minister in reply to Mr. Humayun Kabir has suggested that this will prevent the co-operative society from contributing to charity and other purposes mentioned in this clause. But, I feel that is not the only angle from which we should really look at the question. The real object, Sir, in providing for a bad debt fund is to make it more attractive for the better class of people to join the

co-operative society and becoming members. Sir, we have imposed a lot of restrictions and difficulties in the way of the better class of agriculturists joining hands with the less well-off agriculturists in forming co-operative societies. We have discussed this question on a previous occasion, but I think, in order to make the spirit of co-operation in the societies really more co-operative than what this Bill would permit if it is passed as it is, a bad debt fund would really be a very good source of confidence both for the public as well as for the members. The question has been raised by Khan Bahadur Naziruddin Ahmad that it will create multiplicity of funds. For that very reason, we should not scrap a very good suggestion brought forward from this side of the House. It may be that by creating a bad debt fund the co-operative societies may not be able to contribute in a better measure to charity and other purposes; but, Sir, for that reason I fail to see why the bad debt fund is found unnecessary. If I may only point out to the House an amendment that has been tabled by no less a person than Khan Bahadur Ataur Rahman, who is supposed to know something, if not everything, about co-operative societies, he himself has stated in his amendment that no part of the reserve fund should be used in the co-operative movement but should be invested as provided in sub-clause (*4*). Sir, I do not know whether he will actually move it when we come to it, but that is his intention and should be the intention of a reserve fund. Therefore, I feel, Sir, that Government should really agree to a very wholesome amendment which we have brought up and not allow party considerations or any other considerations to weigh with them.

Rai Bahadur MANMATHA NATH BOSE: I am sorry, Sir, that the Hon'ble Minister in charge has found it necessary to oppose the amendment for creating a bad debt fund. As a matter of fact, Sir, there is considerable difference between a reserve fund and a bad debt fund. Generally, a reserve fund is not spent or cannot be spent, at any rate as the practice now obtains, till the dissolution of the society; whereas a bad debt fund can be utilised for the purpose of liquidating bad debts. Supposing, Sir, a man who is a member of a co-operative society is unable to pay his debt, in order to recover that amount it will be necessary to use funds from that bad debt fund. But you cannot, under the present circumstances, use any part of the reserve fund and so I submit a reserve fund is quite a different thing from a bad debt fund. Moreover, if you refer to sub-clause (*3*) of clause 56, you will find it runs thus:—"Save to the extent that, and in such manner as, may be prescribed, no part of its reserve fund shall be used in the business of a co-operative society." So, I submit that it would be better if the Hon'ble Minister finds his way to accept the suggestion made by my friend Mr. Lalit Chandra Das.

Mr. PRESIDENT: The question before the House is: the amendment of Mr. Lalit Chandra Das: that in clause 56 of the Bill, after the words "reserve fund" wherever it occurs, the words "and a bad debt fund" be inserted.

A division was then demanded and taken with the following result:—

AYES—13.

Bose, Rai Bahadur Manmatha Nath.
Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Dutta, Mr. Kamini Kumar.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Choudhury, Mr. Ranajit.
Ray, Rai Sahib Jogendra Nath.
Roy, Mr. Amulyadhone.
Roy Chowdhury, Mr. Birendra Kishore.
Sanyal, Mr. Sachindra Narayan.
Sen Rai Sahib Jatindra Mohan.

NOES—27.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Aziz, Khan Sahib Abdul.
Barua, Mr. Dhirendra Lal.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Khan Bahadur Rezzaqui Haider.
D'Rozario, Mrs. K.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hossain, Mr. Mohamed.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Ross, Mr. J. B.
Roy, Rai Bahadur Radhica Bhusan.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, The Hon'ble Sir Bijoy Prasad.
Stark, Mr. A. F.
Talukdar, Dr. Kasiruddin.

Mr. PRESIDENT: Order, order. The House has divided. For the amendment—13; against the amendment—27. The amendment is, therefore, negatived.

Rai Sahib JATINDRA MOHAN SEN: I beg to move that in sub-clause (2) of clause 56 of the Bill, the words "or such other proportion as may be prescribed for such society or class of society" be omitted.

Sir, the Bill clause as it stands does not absolutely fix the percentage to be carried to the reserve fund; but an amount of latitude is proposed to be given by providing "or such other proportion as may be prescribed for such society or class of society." My proposal is that there should be a fixed and rigid rule for such society or class of society. There should not be any relaxation, because we know that where relaxation is given, all sorts of advantages are taken. The carrying over to the reserve fund of certain amount of money is a statutory liability and that statutory liability, viz., the amount of money to be carried over, should be a fixed percentage, and there should be no relaxation of that percentage. We find that in the Companies Act so far as the banking

corporations are concerned, the rule is that the reserve fund will bear a fixed percentage of 20 per cent. before the dividend is distributed. So, here also my proposal is that there should be a rigid and fixed percentage to be carried over to the reserve fund. With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (2) of clause 56 of the Bill, the words "or such other proportion as may be prescribed for such society or class of society."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, there is some misapprehension in the mind of my friend Rai Sahib Jatindra Mohan Sen. There is no question of relaxation. Sub-clause (2) of clause 56 itself will show that we desire to make it obligatory upon the society to carry over to the reserve fund not less than 25 per centum of the profit they have made. So, to that extent there is no question of relaxation.

Then, Sir, my friend's misapprehension is that if we kept this other part of the clause, that will mean giving of some amount of relaxation. I do not see how that comes in. That is a provision to meet a case where it may be possible for a society to put in more than 25 per cent. to the reserve fund. But so far as 25 per cent. is concerned, it must go to the reserve fund. It is a statutory obligation and so the question of relaxation does not arise. I submit, therefore, that the reply which I have given will remove the apprehension lingering in the mind of my friend Rai Sahib Jatindra Mohan Sen and that he will see his way to withdraw the amendment; otherwise I have to oppose it.

Khan Bahadur ATAUR RAHMAN: Sir, do I understand the Hon'ble Minister to say that it is obligatory for every society to set apart 25 per cent. as reserve fund and that this clause will empower it to increase that percentage and not to decrease it?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Yes, that is what is meant by this clause.

Mr. J. B. ROSS: Sir, I consider that the reply of the Hon'ble Minister in respect of this amendment is very unsatisfactory. The clause itself is contradictory. It says in the first part that "there shall be carried to the reserve fund not less than 25 per centum." Then in the second part it goes on to say "or such other proportion." So, unless you say definitely after the word proportion "above 25 per cent.," it is not at all clear and without that it is open to the Government to prescribe that any society may put to the reserve fund, say, one per

cent. and still meet the provisions of this clause. From that point of view, I consider that the reply of the Hon'ble Minister is beside the point and unsatisfactory.

Mr. HUMAYUN KABIR: Sir, if the Hon'ble Minister is clear on the point that this clause is meant for increasing the percentage, then will he be prepared to accept a short-notice amendment to this effect, namely, "and such other higher proportion above 25 per cent." to be added after the word "or" in line 3 of sub-clause (*2*)? I think that will make the position absolutely clear: otherwise, it is not at all clear.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am extremely sorry that my friend Mr. Ross should have read something different into the explanation that I gave to the House. I told the House definitely that our intention was to see that the reserve fund was built up out of the net profits and that it shall not be less than 25 per cent. When I say so, I mean what I say; but then when we say in the next place——

Mr. PRESIDENT: Order, order. You cannot make a second speech. You simply explain your point.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I say this by way of explanation that our intention is not to make it less than 25 per cent. under any circumstances. Definite rules will be framed in connection with this clause to make it absolutely clear that the reserve fund is a reserve fund.

Mr. HUMAYUN KABIR: Sir, may I ask the Hon'ble Minister one question? Will he kindly explain if 56 (*2*) will not allow a society to have a reserve fund of only 1 per cent. out of its net profits?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: No.

Mr. HUMAYUN KABIR: Then, we can only say that we differ from the Hon'ble Minister's interpretation of the clause.

Mr. PRESIDENT: There is no room for a second speech.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I am sorry to find that this plain and simple passage should have led to so much difference of opinion. I am inclined to agree with Mr. Ross that the clause really means what Mr. Ross says, namely, that if the Government prescribes a lesser limit than 25 per cent.—say, 1 per cent.—as suggested by

Mr. Humayun Kabir—then any society may carry to the reserve fund not exceeding that limit. The passage is, at best, ambiguous. But it seems to me reasonably clear that a lesser limit would be permissible if so prescribed by the Government. But what the Hon'ble Minister means is that he will prescribe a proportion which would be higher than 25 per cent. If he does so, then the words "as may be prescribed" would govern the whole passage. If he does not prescribe any lesser limit than 25 per cent., then everything will be all right. But speaking humbly, Mr. Ross's apprehension, that if a lesser percentage is prescribed then a society will be entitled to stick to the limit, seems to be thoroughly justified. Some clarification, therefore, seems to be desirable.

Khan Bahadur ATAUR RAHMAN: Sir, the wording of the law should be as clear as possible. This Council's debate or the speech of the Hon'ble Minister will not be taken into consideration in any law court. So, it would be much better that the wording of the clause should be as clear as possible. I believe if the amendment of Mr. Sen is accepted by the House, it will be possible for the department to increase the reserve fund. The law will stand as follows: "Of the net profits of a co-operative society in each year there shall be carried to the reserve fund not less than 25 per cent." So, that will be the minimum percentage. They can raise it to 50 or 75 per cent. as they like. So, I believe the whole thing will be cleared up if that amendment is accepted.

Mr. LALIT CHANDRA DAS: Sir, I desire to support the amendment which has been moved by my friend, Rai Sahib Jatindra Mohan Sen. Now, I would say only one thing to the Hon'ble Minister. The Hon'ble Minister interprets "or some other proportion" to mean higher proportion than 25 per cent. Sir, the Hon'ble Minister is not listening to the debate. I am appealing to him through you, Sir.

Mr. PRESIDENT: You can only address the Chair.

Mr. LALIT CHANDRA DAS: I am addressing the Hon'ble Minister through you, Sir.

Mr. PRESIDENT: I cannot compel him to listen to you.

The question before the House is: that in sub-clause (*2*) of clause 56 of the Bill, the words "or such other proportion as may be prescribed for such society or class of society" be omitted.

A division was then demanded and taken with the following result:—

AYES—13.

Bose, Rai Bahadur Manmatha Nath.
Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Dutta, Mr. Kamini Kumar.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Choudhury, Mr. Ranajit.
Ray, Rai Sahib Jogendra Nath.
Roy, Mr. Amulyadhone.
Roy Chowdhury, Mr. Birendra Kishore.
Sanyal, Mr. Sachindra Narayan.
Sen, Rai Sahib Jatindra Mohan.

NOES—22.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Aziz, Khan Sahib Abdul.
Barua, Mr. Dhirendra Lal.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Khan Bahadur Rezzaqui Haider.
D'Rozario, Mrs. K.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Jan, Alhaj Khan Bahadur Shaikh Muhammad.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Momin, Begum Hamida.
Quasem, Maulvi Abul.
Rashid, Khan Bahadur Kazi Abdur.
Roy, Rai Bahadur Radhica Bhusan.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, The Hon'ble Sir Bijoy Prasad.
Talukdar, Dr. Kasiruddin.

Mr. PRESIDENT: Order, order. The House has divided. For the amendment—13; against the amendment—22. The amendment is, therefore, negatived.

Mr. HUMAYUN KABIR: Sir, may I ask if you would put to the vote the short-notice amendment which I wanted to move?

Mr. PRESIDENT: Your amendment, though in a different language, is the same amendment that has now been put to vote.

Mr. J. B. ROSS: Mr. President, Sir, may I be permitted to move a short-notice amendment to alter the wordings of the clause as follows: "of the net profits of a co-operative society in each year there shall be carried to the reserve fund such proportion being not less than 25 per centum as may be prescribed." I think, Sir, that will cover the whole thing.

Mr. PRESIDENT: If there is no objection, the Chair will be glad to accept it.

(There was no objection.)

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 56, after the words "reserve fund" omit the remaining part of the clause and substitute "such proportion being not less than 25 per centum, as may be prescribed."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Mr. President, Sir, I have a submission to make. Now that something new has been moved, will you be so pleased as to postpone discussion on this amendment till to-morrow, because there might be difficulties in our way. In connection with the framing of rules suggested herein, we shall have to make them with regard to each and every one of the societies. Therefore, we have to examine this amendment. I have already submitted that on the face of it I am satisfied, but I want some time to consider it just to understand its implications. If it so pleases you, Sir, you will kindly postpone it till to-morrow?

Khan Bahadur NAZIRUDDIN AHMAD: With your permission, Sir, I would propose a short-notice amendment. I suggest that the words "for such society or class of society" be retained.

Sir, the words are there. Mr. Ross proposes their deletion but I suggest that these words should be retained. I think that if these words are retained, it will satisfy the Hon'ble Minister as well.

Mr. PRESIDENT: Is it not better that I should postpone the consideration of this short-notice amendment for the present so that the honourable members may evolve an agreed amendment? In that view of the matter, consideration of this short-notice amendment is postponed at present.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, in view of the fact that we have just decided to postpone consideration of the short-notice amendment suggested by Mr. Ross, my amendment may also be postponed, as it is related to it.

Rai Sahib JATINDRA MOHAN SEN: Mr. President, Sir, I beg to move that in sub-clause (3) of clause 56 of the Bill, the words "save to the extent that, and in such manner as may be prescribed" be omitted.

Sir, the object of my amendment is quite obvious. It is not desirable, in my opinion, that any part of the reserve fund should be used in the business of a co-operative society. I have got some experience of the ways in which co-operative societies and other banking corporations have worked and have dealt with the reserve fund which was really meant as a safeguard against bad days. But if it is proposed that under certain circumstances any part of the reserve fund can be used in the business of a co-operative society, my apprehension is that the safeguard which is proposed for putting a certain amount in the reserve fund to meet the bad weather of the society, will be gone. It is absolutely necessary and desirable that definite provision should be made that no part of the reserve fund should be used in the general business

of the society. If any portion of the reserve fund is used in the general business of a co-operative society, one does not know whether that portion of the money would be entirely lost or not. I submit that the reserve fund should be reserved for bad times and should not be used for any other purpose.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*3*) of clause 56 of the Bill, the words "save to the extent that, and in such manner as, may be prescribed" be omitted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am sorry I do not understand the apprehension or misapprehension from which my honourable friend, the Rai Sahib, is suffering. I have already told the House that by reserve fund we mean what that term actually indicates; but I submit it can never be utilised in the way which he suggests. I cannot, therefore, agree to omit the words suggested. We must have definite rules as to how this money should be invested so that in the case of an emergency any part of the fund may be utilised; if no part of the fund is utilised, that shows that the credit of the society has no value. The reserve fund should be there to enable a society to make use of that money when there is need for it. I submit that when my friend suggests so many things about its utility, I do not understand where his apprehension comes from. We cannot agree to leave the matter to the society, but we must lay it down in the rules definitely as to how it can be utilised. Unless it serves the purpose of the reserve fund, it is meaningless. I submit, therefore, that there is not the least chance of using it in any other way, and that there is no ground for the apprehension expressed by the honourable member. Sir, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*3*) of clause 56 of the Bill, the words "save to the extent that, and in such manner as, may be prescribed" be omitted.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I beg to move that in paragraph (*c*) of sub-clause (*4*) of clause 56 of the Bill, after the word "other", the word "scheduled" be inserted.

Sir, when I was moving my amendment under clause 55 regarding investment of fund and suggested that funds should be invested in scheduled banks, my amendment being that the words "scheduled banks" should be inserted after the words "Government savings banks", we were told that such investment should not go beyond the circle of co-operative societies except some recognised financial concerns

such as the Government bank or trust funds or securities under the Indian Trusts Act. Here, I find that in spite of the reserve fund, a provision has been made that a society may deposit its reserve fund in some other bank approved by the Registrar. All that I want is that before the word "bank", the word "scheduled" may be added for that would make the reserve fund more safe. A distinction is now made between banks and banks and by adding the word "scheduled", I simply want to make it more safe.

Mr. PRESIDENT: Amendment moved: that in paragraph (*c*) in sub-clause (*4*) of clause 56 of the Bill, after the word "other" the word "scheduled" be insertetd.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, my friend's apprehensions will be removed if I tell him that we leave it blank for we want to put the money in the Provincial Bank but not in scheduled banks, because we do not want to utilise the money for profiteering. After the reserve fund has been put in in the Government Savings Bank or in any of the securities mentioned in sub-clause (*4*) (*b*), we have provided that if there is anything left, it will be kept in the Provincial Bank.

Mr. LALIT CHANDRA DAS: Why not say so explicitly?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: That would be left to the Registrar, but it cannot be utilised for business purposes.

Mr. PRESIDENT: The question before the House is: that in paragraph (*c*) in sub-clause (*4*) of clause 56 of the Bill, after the word "other", the word "scheduled" be inserted.

(The amendment was negatived.)

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in paragraph (*c*) in sub-clause (*4*) of clause 56 of the Bill, for the word "Registrar", the words "Provincial Government" be substituted.

Sir, I do not want that the responsibility should rest only with the Registrar. If any money is lost, my amendment suggests that the responsibility should be of the Provincial Government and not of the Registrar. Of course, the Provincial Government would act on the advice of the Registrar, but I want that the responsibility should rest not with the Registrar but with the Provincial Government who would ordinarily act on the suggestion or on the recommendation of the Registrar. I, therefore, suggest that the responsibility should lie with the

Provincial Government, which might not then get away with the excuse that "the Registrar has done this; he has committed a mistake and Government are sorry for it".

Mr. PRESIDENT: Amendment moved: that in paragraph (*c*) in sub-clause (*4*) of clause 56 of the Bill, for the word "Registrar", the words "Provincial Government" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am extremely sorry that my friend, Rai Sahib Jatindra Mohan Sen, has thought it fit to move an amendment of this nature. I never knew that he had so much respect for the Provincial Government. However, Sir, the provisions contained in this sub-clause will be subject to the rules to be made, and those rules will come up for the approval of the Provincial Government previous to publication. All this is a matter of detail which must be left to the executive head of the department. The question of Provincial Government does not arise in this connection, but when the rules are framed, they will come before the Provincial Government. Therefore, whether it is the Provincial Government or the Registrar does not matter and we do not see any reason as to why it should be changed to Provincial Government.

Mr. PRESIDENT: The question before the House is: that in paragraph (*c*) in sub-clause (*4*) of clause 56 of the Bill, for the word "Registrar", the words "Provincial Government" be substituted.

(The amendment was negatived.)

Clause 57.

Mr. PRESIDENT: Clause 57 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 57 of the Bill, in sub-clause (*3*), the comma after the word "fund" in line 3, be omitted.

(Laughter from the Opposition Benches.)

Mr. PRESIDENT: Order, order; there should be no occasion for any laughter in this, for in interpreting clauses of Acts, even a comma is sometimes very important.

The question before the House is: that in clause 57 of the Bill, in sub-clause (*3*), the comma after the word "fund" in line 3, be omitted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 57 of the Bill, in sub-clause (*3*), after the word "year" occurring in line 4, a comma be inserted.

Mr. PRESIDENT: The question before the House is: that in clause 57 of the Bill, in sub-clause (*3*), after the word "year" occurring in line 4, a comma be inserted.

(The amendment was agreed to.)

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move that in sub-clause (*3*) of clause 57 of the Bill, after the word "employee" in line 8, the words "or officer" be inserted.

Sir, my submission is that since all sorts of men have been mentioned here, there is absolutely no reason why those people who come under the definition of an "officer" as given at the beginning should not come in. Therefore, I submit that this word may be inserted and my amendment accepted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*3*) of clause 57 of the Bill, after the word "employee" in line 8, the words "or officer" be inserted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, the only submission that I can make in reply to the amendment is that the word "employee" does include all persons employed in the bank. That is how we have read it and if that is so, I do not see any reason why something more is to be added to this clause. Sir, an employee is an employee and it must include even the honorary ones. I do not think there is any necessity for this amendment and I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*3*) of clause 57 of the Bill, after the word "employee" in line 8, the words "or officer" be inserted.

(The amendment was negatived.)

Clause 58.

Mr. PRESIDENT: Clause 58 stand part of the Bill.

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move that in paragraph (*a*) of clause 58 of the Bill, for the word "shall" in line 1, the word "may" be substituted.

Sir, this clause is intended for spending money on charitable purposes. As a matter of fact, I find, Sir, that in the original draft the word used was "may". Now, Sir, there are societies which are unable to set apart some money for the purposes for which clause (*a*) has been enacted. Therefore, they may be given some option and I have submitted that the word "may" be substituted for the word "shall" here. There are societies which have no sufficient funds and compulsory contribution will put a great stress on those societies and would put these societies into difficulty. Further, you will find, Sir, that in clause (*b*) the word used is "may" I think, Sir, that the same word may be used here also and the societies may be given an option in the matter.

Mr. PRESIDENT: Amendment moved: that in paragraph (*a*) of clause 58 of the Bill, for the word "shall" in line 1, the word "may" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I hope if my honourable friend will be good enough to peruse the second line of this sub-clause, his apprehension will be removed. In the first line it is said that it will be done according to the rules that may be prescribed, and then in the next place it will be met from out of the balance of the year's remaining net profits. When all these things have been satisfied, the question of any contribution to a charitable purpose will arise, and in this connection the suggestion that we have put forward in this clause is that it shall not be less than 5 per cent. I submit that it will be difficult for me to accept this amendment, because his purpose will be served by what we have got in the clause and also in the explanation I have given. I oppose it.

Mr. PRESIDENT: The question before the House is: that in paragraph (*a*) of clause 58 of the Bill, for the word "shall" in line 1, the word "may" be substituted.

(The amendment was negatived.)

Mr. NUR AHMED: Mr. President, Sir, I beg to move that in clause 58 of the Bill, in paragraph (*a*), for the words "five per centum" appearing in lines 1 and 2, the words "an amount not exceeding five per centum" be substituted.

Sir, just now an amendment has been moved to delete the word "shall" and to replace it by the word "may". Sub-clause (*a*) relates to contribution for co-operative purposes. The clause says "After

there has been carried to the reserve fund the proportion of the net profits of any year required by sub-section (2) of section 56, a co-operative society—

(a) shall, in the manner prescribed, contribute five per centum of the balance of the year's remaining net profits for co-operative education or for such other co-operative purposes as may be prescribed."

Of course, there are no two opinions about the necessity of co-operative education. People are still untrained in the art of co-operation and most of the members do not understand the spirit of "co-operation". My object is that a fixed sum of five per cent. should not be ear-marked. Some option should be given to the co-operative society concerned. It will appear that not less than 25 per cent. of the net profits of the co-operative society will go to the reserve fund and 10 per cent. will go to education. After these things, I do not think there will be anything left for the members and depositors. So, I think this contribution should be elastic and it should be left to the option of the co-operative societies themselves and to the rules to be made by the department.

Mr. PRESIDENT: Amendment moved: that in clause 58 of the Bill, in paragraph (a) for the words "five per centum" appearing in lines 1 and 2, the words "an amount not exceeding five per centum" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have no objection to accepting this amendment, because this will also meet the point that my friend Rai Bahadur Manmatha Nath Bose has made.

Mr. PRESIDENT: The question before the House is: that in clause 58 of the Bill, in paragraph (a) for the words "five per centum" appearing in lines 1 and 2, the words "an amount not exceeding five per centum" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 58, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 59.

Mr. PRESIDENT: The question before the House is: that clause 59 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: I am informed that Government is not ready to-day to proceed further with the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, I would like to make the position of my party clear on this point. We do not mind accommodating the Hon'ble Minister to-day when he says that the Government are not ready to proceed further; but we expect that in future the Government will come ready at least to keep us engaged for the whole of the time allotted to the House. Really, Sir, it is very inconvenient to us who come from outside, mostly from distant parts of the province. It should not be expected that we will be sitting only for an hour or an hour and a half and then take rest for the day. It is waste of public funds and also waste of our time.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the reason for this situation is that our party is carefully going through all the amendments tabled including those of the Congress party. Last night we worked up to 8 p.m. It is on account of this and because we are checking every item very carefully that the progress is very slow. Although the work put through in the House is brief, we are doing hard work outside the House. We are checking every item carefully and thereby eliminating much needless discussion on our side in the House. I, therefore, hope, Sir, that the Hon'ble Leader of the Opposition will accept this explanation from us.

Mr. LALIT CHANDRA DAS: May I say one word, Sir? What my friend Khan Bahadur Naziruddin Ahmad has said has really troubled us a great deal. It appears, Sir, that they come to this House with a set purpose. They examine our amendments behind our back. They do not hear us and when we put forward our points of view, they put cotton into their ears and sit down and when the time of voting comes they go and vote. All that I do say is that the party should have the common sense and decency to authorise the Leader of the House to decide a certain question within the House itself so that after hearing us and our reasons in support of the amendments sponsored from this side, they may pass orders to their followers as to what line of action they should take. It has now been revealed by the honourable member that behind our back our amendments are disposed of at their party meetings, and that they do not hear us here but simply vote. We certainly protest against this sort of thing.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government repudiate the charge that only the amendments tabled by a particular party receive Government's consideration and that they do not examine the amendments tabled by the Opposition. As a matter of

fact, Government consider each and every amendment very carefully and make up their mind one way or the other. Sir, my friend ought to realise that it is not always possible for Government to make up their mind here on the floor of the House. They have to examine each amendment with the help of their expert advisers and then come to a provisional decision. But if they are convinced by the weight of the arguments advanced by my honourable friends, certainly they are open to conviction, and that is the principle which Government do follow and have been following also in connection with this Bill.

Now, as regards the difficulty which has arisen because Government are not ready to proceed further with the Bill to-day, I fully appreciate the observations made by the Leader of the Opposition that they come from the mufassil and they expect Government to sit for the full time. But I hope, Sir, my honourable friends will also realise that a very large number of amendments have been tabled by the different groups of the House and naturally Government cannot proceed with a Bill of such a complicated character without giving proper consideration to each and every amendment. Government make every effort to come prepared so that they might keep the members occupied for full time.

Mr. LALIT CHANDRA DAS: Sir, the Hon'ble Leader of the House was not here when we wanted to come to a decision on certain points with our minds wide open. To-day on two occasions the Coalition Party members spoke in support of the amendments moved from this side of the House, but when the Division was demanded, they went to the opposite lobby.

Mr. NARESH NATH MOOKERJEE: Sir, the Leader of the House has said that Government will consider all the amendments which are tabled. Are we then to take it that none of our amendments have been found to be reasonable even after examination? To my mind, Sir, the only rule that Government have followed is that of opposing all the amendments sponsored by this side of the House. But to-day when an amendment was moved by the European Group, Government have taken time to consider it; also when another amendment was moved by the other side of the House, they have accepted it. I do not, therefore, see any force in what Sir Bijoy Prasad has just said.

Khan Bahadur ATAUR RAHMAN: Sir, our difficulty is that so many amendments have been tabled on behalf of the Congress Party to clauses which do not even exist that it takes a lot of time to go through all of them, and also to consider other amendments. Every amendment has to be thoroughly considered outside the Chamber and much of the time of the House would be simply wasted if we did not

come prepared beforehand. The little time that we shall lose by earlier adjournment of the House to-day will be more than compensated by previous consideration of them outside the House.

Mr. PRESIDENT: I hope the protest made by the Hon'ble the Leader of the Opposition has been taken note of by the Government. Government should, no doubt, endeavour to keep the House engaged for the full period fixed for its sittings. But the House should also realise the difficulties of the Government, as explained by the Hon'ble Leader of the House. It was not proper to give the details of what happened at party meetings. Decisions arrived at at party meetings should be treated as tentative. Free debate and free voting are the cardinal privileges of the House. The Chair will not allow any argument to be put forward in the House that because of certain decisions reached at party meetings, members are compelled to vote in a particular manner. I do not contend, however, that there should not be any discussion at party meetings or that provisional decisions should not be taken there. All that I mean is that such discussions at party meetings should not stand in the way of the members giving a free expression to their views on the floor of the House.

The House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 5th September, 1940.

Members absent.

The following members were absent from the meeting held on the 4th September, 1940:—

(1) Mr. Kader Baksh.

(2) Rai Bahadur Keshab Chandra Banerjee.

(3) Mr. Bankim Chandra Dutt.

(4) Mr. Narendra Chandra Datta.

(5) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(6) Maulana Muhammad Akram Khan.

(7) Mr. W. B. G. Laidlaw.

(8) Sir T. Lamb.

(9) Dr. Radha Kumud Mookerji.

B. G. Press—1940-41—8250C—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 5th September, 1940, at 2-15 p.m. being the twenty-fourth day of the Second Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Berhampur Agricultural Farm.

98. Khan Bahadur ATAUR RAHMAN: (a) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state what is the total area cultivated in the Berhampur Agricultural Farm, showing area against each crop?

(b) Are these the main crops of the district? If not, what are the chief and most important crops of the district and why other important crops are not experimented upon?

(c) What is the total cost of cultivation of the farm land including the upkeep of cattle and overhead charges?

(d) What are the sale-proceeds of crops produced in the farm?

(e) What is the loss or gain per acre?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (a) A statement in respect of the area under cultivation during 1939-40 is laid on the table.

(b) The chief and most important crops of the district are paddy (*aus* and *aman*), sugarcane, oil seeds and pulses. Of the important crops of the district, *aman* paddy is not grown in the farm for want of suitable land for the cultivation of such paddy within the farm area whereas new important crops such as cotton, flax and groundnut are being experimented upon in the farm in order to find out the suitability of these crops for the soil of the district with the object of introducing them in the district if they prove suitable.

(c) About Rs.2,250.

(d) About Rs.2,400.

(*e*) The farm yields a profit of Rs.4-11 per acre including experimental areas which are not run on a commercial basis and Rs.13-11 per acre excluding experimental areas.

Statement referred to in the reply to clause (a) of question No. 88.

List of crops grown in Berhampur Farm (year 1939-40).

	Name of crops.	Area in acre.
1.	Sugarcane	4·450
2.	Aus paddy	5·683
3.	Maize (seed)	0·626
4.	Joar, millet, maize for fodder	1·916
5.	Jute for seeds	0·250
6.	Napier grass	1·710
7.	Cowpea for fodder	2·020
8.	Maize for fodder	0·030
9.	Groundnut	3·160
10.	Gram	4·240
11.	Lentil	2·710
12.	Linseed	1·923
13.	Rai No. 5	0·950
14.	Tobacco	0·330
15.	Wheat	0·640
16.	Cotton	0·380
17.	Flax	1·000
	Total	32·018

Khan Bahadur ATAUR RAHMAN: Is the Hon'ble Minister aware that more than half the district which is known as *Rarh* produces only *aman* crop?

The Hon'ble Mr. TAMIZUDDIN KHAN: Probably so, Sir. My friend knows the district more intimately than myself.

Khan Bahadur ATAUR RAHMAN: May I enquire if any attempt is being made to experiment and improve the seeds of *aman* crop in the district?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I think in the demonstration farms demonstrations are given about improving seeds of paddy.

The Bengal Water-Hyacinth (Amendment) Bill, 1940.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, may I request you to take up the second item of Government business? That is only a short item.

Mr. PRESIDENT: All right.

The Hon'ble Mr. TAMIZUDDIN KHAN: Mr. President, Sir, I beg to introduce the Bengal Water-Hyacinth (Amendment) Bill, 1940.

Mr. PRESIDENT: The Bill is introduced. The House will now resume further consideration of the Bengal Co-operative Societies Bill, 1940.

The Bengal Co-operative Societies, Bill, 1940.

Clause 60.

Mr. PRESIDENT: Clause 60 stand part of the Bill.

Mr. HUMAYUN KABIR: Sir, I beg to move that at the end of sub-clause (*1*) of clause 60 of the Bill, and before the proviso, the following be inserted, viz.:—

"except when a member present at a meeting is empowered under the proviso to section 20 (*1*) to exercise votes on behalf of absentee members."

This, Sir, deals only with cases where a person has been sent as a delegate to represent a group of members. It is usually the practice in the case of companies to enable such a delegate to exercise the number of votes of his constituents. In the co-operative societies also it may be that sometimes the interests of different groups may be not identical, and it is, therefore, desirable that a particular group of members who are represented by a delegate should be able to make their collective votes felt in such a meeting.

With these words, I move my amendment.

Mr. PRESIDENT: Amendment moved: that at the end of sub-clause (*1*) of clause 60 of the Bill, and before the proviso, the following be inserted, viz.:—

"except when a member present at a meeting is empowered under the proviso to section 29 (*1*) to exercise votes on behalf of the absentee members."

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to oppose this amendment. I submit that it is not necessary. The idea conveyed by the amendment is already included in the Bill clause and in the rule-making power. In sub-clause (*1*) of clause 60 it is stated: "subject to the rules relating to voting by delegates." I think this covers the idea attempted to be introduced into the Bill clause by the amendment. In clause 139 (*2*), paragraph (*xii*), Government may make rules to cover the ground. The paragraph gives three distinct powers to the Government. The first relates to "the circumstances in which delegates may be elected for the purposes of section 20;" secondly, the rules may lay down "the manner of electing delegates for any of the purposes of this Act;" and thirdly, "the manner in which delegates so elected shall vote." So, the entire ground is covered by the dominating clause, "subject to the rules." The Bill-clause and the rule-making power make up an entire picture and the insertion of the passage is not necessary. I do not oppose the honourable mover's idea. I only oppose it on the ground of redundancy. It is sufficiently covered by the rule-making power. That is my reason for opposing it.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, after what my honourable friend Khan Bahadur Naziruddin Ahmad has said, I think there is nothing for me to add. With regard to what Professor Kabir suggests, as a matter of fact we have kept that in view. I submit, Sir, it is a matter of detail and need not form part of the statute. I submit, therefore, that we need not add this to the Bill-clause.

Mr. PRESIDENT: The question before the House is: that at the end of sub-clause (*1*) of clause 60 of the Bill, and before the proviso, the following be inserted, viz.:—

"except when a member present at a meeting is empowered under the proviso to section 20 (*1*) to exercise votes on behalf of absentee members."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 60 stand part of the Bill.

(The motion was agreed to.)

Clause 61.

Mr. PRESIDENT: Clause 61 stand part of the Bill.

The question before the House is: that clause 61 stand part of the Bill.

(The motion was agreed to.)

Clause 62.

Mr. PRESIDENT: Clause 62 stand part of the Bill.

The question before the House is: that clause 62 stand part of the Bill.

(The motion was agreed to.)

Clause 63.

Mr. PRESIDENT: Clause 63 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 63 of the Bill, the word "co-operative" occurring in line 5, be omitted.

Sir, I propose this amendment to avoid redundancy.

Mr. PRESIDENT: The question before the House is: that in clause 63 of the Bill, the word "co-operative" occurring in line 5, be omitted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 63 of the Bill, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 64.

Mr. PRESIDENT: Clause 64 stand part of the Bill.

The question before the House is: that clause 64 stand part of the Bill.

(The motion was agreed to.)

Clause 65.

Mr. PRESIDENT: Clause 65 stand part of the Bill.

The question before the House is: that clause 65 stand part of the Bill.

(The motion was agreed to.)

Clause 66.

Mr. PRESIDENT: Clause 66 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 66 of the Bill, for the word "decease" in line 4, the word "death" be substituted.

Sir, the word "decease" seems to me to be a bit too pedantic. The simple word "death" covers the same idea and at the same time it would be more easily intelligible. So, for the sake of simplicity, I have suggested it.

Mr. PRESIDENT: The question before the House is: that in clause 66 of the Bill, for the word "decease" in line 4, the word "death" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 66, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 67.

Mr. PRESIDENT: The question before the House is: that clause 67 stand part of the Bill.

(The motion was agreed to.)

Clause 68.

Mr. PRESIDENT: The question before the House is: that clause 68 stand part of the Bill.

(The motion was agreed to.)

Clause 69.

Mr. PRESIDENT: Clause 69 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 69 of the Bill, after the word "'permit" in line 1, a comma be inserted.

Sir, there was considerable amount of meriment in the House yesterday over a few commas, and you, Sir, very kindly held that even a comma might be very important in the interpretation of the provisions of Statutes. Sir, with regard to this, I have an experience. In the Criminal Procedure Code there was a provision enabling certain legal practitioners to appear before Sessions Judges, but on account of the existence of a single comma in the relevant section, Muktears were held to be not empowered to appear in such Courts. So, there was a great commotion about it and the Muktears held a few conferences and condemned this mischievous comma. They formally approached the

late lamented Maulvi Abul Kasem, who was then a member of the Central Assembly, for the deletion of this comma. This honourable member brought an imposing Bill for the sole object of exterminating this pernicious comma! The Bill was formally passed by both the Houses of the Central Legislature and it received the formal assent of the Viceroy and secured a permanent place in the Statute Book. The much-hated comma was formally banished from the Code and the Muktears began to practise in the Sessions Courts throughout British India. So, a thing of great importance may lie concealed behind a small comma. I, therefore, submit, Sir, that the insertion or removal of a small comma might lead to important consequences.

Mr. RANAJIT PAL CHAUDHURY: There must be something vital.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, a small comma may be too insignificant to deserve the attention of my friends opposite. They are big-game hunters; they would only kill elephants, rhinoceroses, lions and tigers. But there are others who try to kill small games such as rats and mice and things like that. My honourable friends opposite attempt to delete entire clauses from the Bill. In this legislative past-time they are big-game hunters, while I am a small-game hunter. While they confine their attention to bigger things,——

Maulvi ABUL QUASEM: On a oint of order, Sir. May I have your ruling as to whether punctuation marks are actually things which may be done by the members of the Legislature or these simple things should be left to be done by the Secretary of the Department? I think these omissions can very well be supplied by the Secretary and the clerks of the Department. Besides, the commas and other punctuation marks are no part of the statute and cannot be taken into account for the purpose of interpretation.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I say a few words in reply to the point of order? My friend's interpretation of the law refers to a period when British enactments contained no commas or full-stops or other punctuation marks. They were so framed as to be self-explanatory. But later on punctuation marks were introduced in the legislative enactments. Since then, there was a tendency to take increasing notice of punctuation marks. The older statutes, without punctuation marks, were cumbrous and prolix and would make intolerable reading to-day. The introduction of the punctuation marks and divisions and subdivisions have ensured clarity and simplicity and are necessarily important parts of a modern statute. I know, Sir, that if these redundant or erroneous punctuation marks are not omitted by the Legislature, the Secretary has the power to omit them.

But the power of the Legislature is not barred. The Secretary might miss them and the Legislature is nowhere required to surrender its responsibility in this respect. The consequences may be too serious for us to allow the statute to drift and take its chance. That is how I understand my responsibility in the House.

Mr. LALIT CHANDRA DAS: Sir, I think that these small things should be left to the Secretary. He is quite competent under the law, I suppose, to deal with them.

Mr. PRESIDENT: A very interesting point of order has been raised by Mr. Abul Quasem. It is true that in the British Parliament, in earlier days, copies of Bills were prepared in manuscript and there were no punctuations; but as Khan Bahadur Naziruddin Ahmad has said, that practice has long been changed. Formerly, the Bill was engrossed without punctuation on parchment, and as neither the marginal notes nor the punctuations appeared on the roll, they formed no part of the Act. This practice has now been discontinued but a copy of each Act, printed on vellum, is preserved and constitutes the official record of that particular Statute. Here, in this House we get the Bills passed by the other House in print and our office has no power to introduce any change even in respect of punctuations. We are strictly to comply with the provision contained in section 68 of our Rules which says:—

"When a Bill is passed by the Council, the Secretary shall, if necessary, renumber the clauses, revise and complete the marginal notes thereof and make such purely formal consequential amendments therein as may be required, and two copies of the Bill shall be submitted to the President and shall be signed by him."

This is all that the Secretary is authorised to do. But as has been argued by Khan Bahadur Naziruddin Ahmad, the removal of a comma from one place to another may sometimes make a good deal of difference in the interpretation of the provisions in an Act, and I hold that the honourable members of the House will be in order to propose such amendments.

In this connection, I may refer to Sir Alison Russell's "Legislative and Other Forms". The learned author says:—

"Care should be taken in the use of punctuation and brackets, since they greatly elucidate or obscure the meaning." He refers to the case of the Duke of Devonshire *versus* O'Connor (1890) 24 Q.B.D. 468, where Lord Esher, M.R., lays down the law as follows:—"To my mind it is perfectly clear that in an Act of Parliament there are no such things as brackets, any more than there are such things as stops. It may be doubted whether this is so in a colony, where

every ordinance is signed by the Governor in a print, complete with punctuation and brackets. In any case, everyone on all ordinary occasions construes a section with the aid of its stops and brackets, and accordingly the draftsman should give them great attention."

The practice in India is analogous to the Colonial Parliaments. The Bill comes from the other House in print with punctuations and brackets complete and the Clerk-at-the-Table has no right to alter a comma or a stop in a Bill.

The question before the House is the amendment of Khan Bahadur Naziruddin Ahmad: that in clause 69 of the Bill after the word "permit" in line 1, a comma be inserted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 69, as amended, stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 70 stand part of the Bill.

(The motion was agreed to.)

Clause 71.

Mr. PRESIDENT: Clause 71 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I have some amendments under clause 71 which will be consequential to the amendments to section 73. So, may I request you to postpone my amendments under clause 71 till we come to clause 73? If the amendment which has been suggested there is accepted, then consequential amendments will be necessary in two places.

Mr. PRESIDENT: Yes, I agree that these may be postponed. I postpone amendments under clause 71 and new clause 71A for the present.

Clause 72.

Mr. PRESIDENT: Clause 72 stand part of the Bill.

The question before the House is: that clause 72 stand part of the Bill.

(The motion was agreed to.)

Clause 73.

Mr. PRESIDENT: Clause 73 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 73 of the Bill, in sub-clause (*c*), for the words "his guardian" occurring at the end, the words and figure "any person appointed to manage his properties under the Indian Lunacy Act, 1912," be substituted; and the following statute reference be inserted in the margin, namely:—

"Act IV of 1912."

Sir, in explaining my amendment I should like to say that clause 73 deals with the properties and assets of a person, amongst others, who ceases to be a member on the ground of lunacy. The Bill-clause says that in the case of a lunatic his assets may be made over to his "guardian". I find that so far as lunatics are concerned, there is a special Act, the Indian Lunacy Act of 1912. That Act completely covers the field and explicitly deals with the rights of lunatics. Under that Act, in spite of the lunatic having a natural guardian, provision has been made that courts may appoint persons to manage the properties of lunatics. These managers, appointed by different kinds of courts under different circumstances, represent the entire estate of the lunatic. If we do not clearly mention here that the assets of the lunatic should be made over to the person who manages a lunatic's estate under the Lunacy Act, the result would be that the co-operative societies, without knowing the existence of that Act, would be inclined to deliver the assets and make payments to the natural guardians. And when subsequently another person is appointed to manage the properties of the lunatic under the Lunacy Act, and when he claims the money or property or the assets on behalf of the lunatic, the co-operative society concerned will be put to a lot of trouble. Such a person may sue the co-operative society for damages or compensation for making payment to a wrong person. In order to avoid such troubles, I have suggested this amendment. The amendment has been carefully examined by Government experts and found to be necessary.

Sir, I may be permitted to refer to a parallel example. When a man dies, his heirs can recover his dues by taking a succession certificate. We have provided that money belonging to persons who are dead should be made over to his successors or other persons who have taken out the succession certificate. Although the taking out of a succession certificate may lead to some amount of trouble and expense to the successors concerned, the law gives absolute protection to persons making payments to holders of such certificates. But otherwise, an undisclosed rightful heir or representative may again realise his dues. The precaution is, therefore, necessary. In order, therefore, to protect societies who cannot be depended upon to take care of themselves in legal matters, we should here make a provision like this, so that they cannot by inadvertence or mistake pay out any money or

property to wrong persons and subsequently be sued by the Court, Manager or guardians for such money or property. In these circumstances, I have proposed this amendment; it is no doubt a formal amendment but it will, I hope, cure a lacuna.

With these words, Sir, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: The question before the House is: that in clause 73 of the Bill in sub-clause (*c*), for the words "his guardian" occurring at the end, the words and figure "any person appointed to manage his properties under the Indian Lunacy Act, 1912" be substituted; and the following statute reference be inserted in the margin, namely:—

"Act IV of 1912."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 73, as amended, stand part of the Bill.

(The amendment was agreed to.)

Clause 74.

Mr. PRESIDENT: Clause 74 stand part of the Bill.

Mr. NUR AHMED: Sir, I beg to move that in clause 74 of the Bill, after the words "All payments" in line 1, the words "and transfers" be inserted.

Sir, clause 74 runs as follows: "All payments made by a co-operative society in accordance with the provisions of sections 70 to 73 inclusive shall be valid and effectual against any demand made upon the society by any other person." Clauses 71 and 73 deal with two things, namely, appointments and transfers, and clause 74 wants that societies should be immune from any other liability in any court. Therefore, the insertion of these two words is necessary. So, I move this amendment.

Mr. PRESIDENT: Amendment moved: that in clause 74 of the Bill, after the words "All payments" in line 1, the words "and transfers" be inserted.

The question before the House is: that in clause 74 of the Bill, after the words "All payments" in line 1, the words "and transfers" be inserted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 74, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 71.

Mr. PRESIDENT: Clause 71 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, as a consequence of the amendment that has been passed by the House under clause 73, I propose a short-notice amendment which will be consequential to that. Some consequential changes will be necessary in clause 71. Therefore, by way of short-notice amendment of a formal character, I move that in clause 71 for the words "his guardian" occurring in two places in the clause, the words and figure "any person appointed to manage his property under the Indian Lunacy Act, 1912," be substituted and the following statute reference be inserted in the margin, namely,—

"Act IV of 1912."

Mr. PRESIDENT: May I take it that there is no objection to this amendment being moved as a short-notice amendment?

(There was no objection.)

Mr. PRESIDENT: The question before the House is: that in clause 71 for the words, "his guardian" occurring in two places in the clause, the words and figure "any person appointed to manage his property under the Indian Lunacy Act, 1912," be substituted and the following statute reference be inserted in the margin, namely,—

"Act IV of 1912."

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move: that after clause 71 of the Bill, the following new clause be inserted, namely:—

"Restriction on transfer of possession of and interest in land held under a co-operative society.

71A. Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force—

(*1*) a member of a co-operative society, the object of which is the reclamation and colonization of land or the acquisition of land and the leasing thereof to its members, shall not be entitled to transfer his possession of or interest in any land held by him under the society, except to the society or, with the previous approval of the society given in accordance with its bye-laws, to a member thereof;

(*2*) when the membership of a member of a co-operative society specified in clause (1) terminates by reason of his death, expulsion, resignation or insanity, or any other cause, his possession of and interest in any land held by him under the

society shall vest in his heir, executor or administrator or in the person, if any, nominated by him under section 69, if such heir, executor, administrator or person is willing to become a member of the society and is eligible for membership in accordance with the bye-laws of the society;

(*3*) if the heir, executor, administrator or person referred to in clause (2) does not become a member of the co-operative society, the possession of and interest in the land of the deceased, expelled, resigned, or insane member shall vest in the society, which shall pay to such heir, executor, administrator or person, as the case may be, a sum equivalent to the value of the land as determined in accordance with the rules; and

(*4*) no land held under a co-operative society specified in clause (1), by a member thereof, or vested under clause (2) in the heir, executor or administrator of such member or in any person nominated by such member under section 69 shall be attachable in any suit or proceeding for the recovery of any debt other than a debt due to the society or to a member thereof."

Mr. PRESIDENT: Amendment moved: that after clause 71 of the Bill, the following new clause be inserted, namely:—

71A. Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force—

(*1*) a member of a co-operative society, the object of which is the reclamation and colonization of land or the acquisition of land and the leasing thereof to its members, shall not be entitled to transfer his possession of or interest in any land held by him under the society, except to the society or, with the previous approval of the society given in accordance with its bye-laws, to a member there;

(*2*) when the membership of a member of a co-operative society specified in clause (1) terminates by reason of his death, expulsion, resignation or insanity, or any other cause, his possession of and interest in any land held by him under the society shall vest in his heir, executor or administrator or in the person, if any, nominated by him under section 69, if such heir, executor, administrator or person is willing to become a member of the society and is eligible for membership in accordance with the bye-laws of the society;

(*3*) if the heir, executor, administrator or person referred to in clause (2) does not become a member of the co-operative society, the possession of and interest in the land of the deceased, expelled, resigned, or insane member shall vest in

the society, which shall pay to such heir, executor, administrator or person, as the case may be, a sum equivalent to the value of the land as determined in accordance with the rules; and

(4) no land held under a co-operative society specified in clause (1), by a member thereof, or vested under clause (2) in the heir, executor or administrator of such member or in any person nominated by such member under section 69 shall be attachable in any suit or proceeding for the recovery of any debt other than a debt due to the society or to a member thereof."

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to support this amendment, and in doing so I propose to make only a few remarks. Sir, this is very necessary in the interest of the colonisation of areas on the basis of co-operative societies. Sir, if the members of the co-operative societies of the colonisation area were allowed to transfer their lands in any way they liked, then the colonisation scheme cannot at all be successful. The colonisation schemes are drawn up by the co-operative societies according to certain principles and according to the bye-laws of the societies; I think they cannot transfer their lands to anybody else except to their members. Still, it is considered necessary that it should be specifically mentioned in the statute that they cannot transfer to anybody else except to a member. But, Sir, there is one point which strikes me, and that is that it is laid down that it can be transferred only to a member thereof. Whether a *bonâ fide* agriculturist who is not still a member will be entitled to purchase the land of an ex-member is difficult to ascertain from the draft as it has been made out. (Mr. LALIT CHANDRA DAS: No.) If a member includes a prospective member, then of course it will be all right; but otherwise I think, Sir, this amendment will be a bit incomplete. Otherwise, I think this restriction on land alienation in colonisation area which this amendment seeks to provide for is very sound in principle, and it ought to be in the Statute Book itself, as without it, this colonisation scheme cannot be at all successful.

With these words, Sir, I support the amendment.

Mr. LALIT CHANDRA DAS: On a matter of information, Sir. May we know from the mover of the amendment what is meant by acquisition of land? It is mentioned in the amendment, "a member of a co-operative society, the object of which is the reclamation and colonization of land or the acquisition of land". Supposing, 50 members of a certain village give up their own lands to a society for acquisition and then their own lands are acquired and formed into a co-operative society, is such transaction contemplated to mean acquisition of land?

Mr. MESBAHUDDIN AHMED: Yes, they can if they all combine.

Mr. LALIT CHANDRA DAS: Then, Sir, I will object to this clause.

Sir, I have been just now informed by the mover of this amendment that a certain number of persons in a certain village can give up their own lands and then form themselves into a co-operative society to which the provisions of section 71A will be applicable. Sir, if this is what is really meant by the acquisition of land and not the acquisition of any fresh lands, then it would be the easiest means of defrauding the creditors. In every village there are a number of debtors. They may so combine and give up their own lands and then form themselves into a co-operative society and as soon as they form themselves into a co-operative society, section 71A will be applicable, with the result that none of their lands can be touched by any creditors in spite of the fact that they have got decrees against them. Then again, Sir, there are a large number of debt settlement boards in the mufassil. We learn from the Hon'ble Minister in charge of the Co-operative Societies and also from the Chief Minister that as a result of the working of the debt settlement boards a large amount of money has been resolved and a compromise has been effected between the debtors and the creditors. Now, if these debtors combine and form themselves into a co-operative society giving up their own lands for acquisition by that co-operative society, the result will be that the compromises effected by the debt settlement boards will be make-believe compromises between the creditors and the debtors, and practically the result will be the wiping out of the whole debt, section 71A coming to their rescue and preventing anybody from touching their property.

Sir, it is a revolutionary section and I strongly object to it.

Mr. HUMAYUN KABIR: Mr. President, Sir, I think there is one further lacuna in the amendment as drafted. Under clause 71A, sub-clause (*1*), a member has the right to transfer his land only to a member, but it may be that in certain cases he might want to nominate another person who is not yet a member, but is eligible to become a member. This question of eligibility to become a member is recognised in sub-clause (*2*). But in the case of sub-clause (*1*), there is no such provision, with the result that he will have to transfer the land either to the society or to a person who is already a member, although section 69 of the Bill gives such a shareholder in a co-operative society the option to nominate a person if the bye-laws of the society so permit him. In such cases, the shares may be transferred in the interest of such a person. I think some such provision should be made also in clause 71A, sub-clause (*1*), so that a member of a co-operative society may transfer his loan either to the society or to his heirs or to a person who may be acceptable to the society; otherwise, there may be the danger that

there will be no increase in the membership of the society. In some cases, persons may be willing to come and join such a colonisation society for acuisition of land, but the clause, as drafted at present, seems to prevsnt it unless a modification is made in sub-clause (*1*) by adding "or a person nominated by him under section 69." Sir, this need not frighten the framers of the amendment, because section 69 has already safeguarded against the inclusion of an undesirable person. Under it a stranger may be nominated only if the co-operative society accepts such a nomination. Therefore, this will guard against the possibility of an undesirable person coming in and will at the same time make it a little more flexible than is contemplated at present.

Mr. NUR AHMED: Sir, I rise to support the amendment. I think it is one of the most important amendments moved in connection with this Bill. It relates to those societies which are concerned with the colonisation of forest lands. I think it has been moved with particular reference to the Badarkhali Agricultural Society. Sir, I must say that it is one of the land-marks of the Co-operative Department for which the department deserves our thanks. It is an admitted fact that the number of landless agriculturists are growing day by day, and it also appears from the statistics that the number of transfers of lands belonging to actual agriculturists is growing every year. Compared to the figures of three or four years ago, the number of such transfers has now doubled or trebled. It is necessary, therefore, that Government should now come forward and provide lands for such landless but *bonâ fide* agriculturists. Sir, I know some of the bye-laws of the Badarkhali Agricultural Society with which I was connected at its initial stage. One of them provides that a member of the society has to live on the colony and has to cultivate his land as a *bonâ fide* cultivator. Whoever goes there on that condition will become a member of that society, but no outsider who is a non-agriculturist is allowed to settle in the colony. The Badarkhali area which was once a jungle tract of uncultivable land has now become a big colony having twelve thousand cultivators; it has also primary schools, medical dispensaries and other things. It has really developed into a beautiful colony now; and so in the interest of poor cultivators, I say that this amendment is necessary. But if outsiders are allowed to settle there and buy up their lands, then the actual cultivators will be driven out, as the agricultural peasants are the poorest people. Therefore, I think, there can be no objection to the acceptance of this amendment.

Khan Bahadur ATAUR RAHMAN: Sir, this is one of the most valuable provisions in the whole Bill, particularly for the agriculturists. In the various Bills which have already come up before the Legislature

attempts have been made to see that agriculturists prosper, their land is kept with them and not usurpe by *mahajans*. Government have their own *khas mahal* jungles and *chars*, such as Sundarbans and Fraserganj, in the 24-Parganas. There Government are trying to give land only to agriculturists, provided they live on the land and cultivate certain areas either themselves or with the members of their own families. In this way, the colonisation in the jungle area is being taken up and beautiful villages are springing up. All possible steps are taken to keep off the *mahajan*. With that idea the colonisation scheme has been started. Still, in some places lands have gone into the hands of *mahajans* on account of some lacuna in the law. If some provision like this were in existence. this trouble could have been avoided. When a village is formed on a co-operative basis, people should take care that only *bonâ fide* agriculturists are taken in as members. There will be no chance of any non-agriculturists coming in and acquiring their interest. We all know that the Anglo-Indians have started their own colony somewhere in Manbhum or Singhbhum; there they do not allow outsiders to come in, and the colony is confined to themselves. It will be a similar thing, and I think it is very desirable that this amendment should be passed. I have, however, got only one point to mention in this connection, as has been pointed out by Mr. Humayun Kabir, namely, that in the sub-clause there is really a lacuna and if that were removed, it would be much more perfect. But I do not know whether it can be accepted at this stage. Anyhow, I hope the House will accept the principle underlying this amendment.

Mr. KAMINI KUMAR DUTTA: So far as our party is concerned, we accept the principle underlying this new clause. But I think that the point raised by my honourable friend Mr. Lalit Chandra Das deserves careful consideration. Advantage may be taken of this new clause to form societies with a view not to pay up the debts which have been previously incurred. Of course, whether a legislation like this can free a property already under some incumbrance or whether it will enable the man who is already in some debt to make his property free from the liability which he incurred previously, is a very difficult and intricate question of law. Sir, if you permit me, I wish to move a short-notice amendment which will remove this difficulty.

Mr. PRESIDENT: Read out your short-notice amendment.

Mr. KAMINI KUMAR DUTTA: The only change I suggest to this amendment is the insertion of the words, "incurred after vesting of the land in the co-operative society", after the word "debt" in line 5 of

sub-clause (*4*) of the proposed clause 71A. With my amendment sub-clause (*4*) will read thus:—

"no land under a co-operative society specified in clause (1) a member thereof, or vested under clause (2) in the heir, executor or administrator of such member or any person nominated by such member under section 69 shall be attachable in any suit or proceeding for the recovery of any debt incurred after vesting of the land in the co-operative society other than a debt due to the society or to a member thereof."

Sir, I fully agree with the principle underlying this clause, but at the same time I feel that the law should not be of such a character as would give countenance to any intention of defrauding the debt which a man has already incurred. It must be remembered, Sir, that this clause aims at not only forming a society by reclamation and colonisation but also by acquisition of land. If a society is formed by acquisition of land, I can visualise that a clash may arise. But the question is: whether by that acquisition and by adding this sub-clause (*4*) we can make an encumbered property free from encumbrance.

My idea is that it will not be free. If my short-notice amendment is adopted, I think the spirit of the law will be maintained. At the same time, it will not allow the formation of a sort of fraudulent society in order to deprive the creditors of their dues—the debt which they have already incurred and a debt which is already a burden on their lands.

With your permission, I want, therefore, to add the words "incurred after the vesting of the land in the co-operative society." This amendment will do away with the controversial points raised between the law now existing and the new law.

Mr. PRESIDENT: Is there any objection to this short-notice amendment of Mr. Dutta?

(No objection was raised.)

Mr. Dutta, you formally move your amendment.

Mr. KAMINI KUMAR DUTTA: I beg to move: that in sub-clause (*4*) of new clause 71A, after the word "debt" in line 5, the words "incurred after the vesting of the land in the co-operative society" be added.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*4*) of new clause 71A, after the word "debt" in line 5, the words "incurred after the vesting of the land in the co-operative society" be added.

Rai Sahib JATINDRA MOHAN SEN: Sir, I fully admit that this is a very important amendment, and that it should find a place in this Bill. Sir, can I speak on the amendment of Mr. Lalit Chandra Das to the original amendment?

Mr. PRESIDENT: Yes, you can speak both on the amendment and on amendment to the amendment.

Rai Sahib JATINDRA MOHAN SEN: As I have said, it is a very important amendment; but at the same time the suggestion of my honourable friend Mr. Lalit Chandra Das is also very important. Another honourable member, Mr. Humayun Kabir, has made another suggestion. It is, therefore, I think necessary that there should be clarification of the provisions in this new clause. It is for the purpose of reclamation and colonisation of land through co-operative societies that this provision is being made.

Now, the important thing in this connection which should be considered is that the interest of different persons should not be adversely affected. With regard to the first question, which is acquisition of land, Mr. Lalit Chandra Das enquired whether this acquisition of land would include the voluntary transfer of land by the cultivators to the society. I do not think that that comes within the meaning of acquisition. Acquisition has got a certain meaning according to law, and transfer is entirely a different thing. The whole of sub-clause (1) would show that there is some underlying principle with regard to the object for which the land is to be acquired. The first thing is that the land is to be reclaimed and colonised and the next thing is that the land is to be acquired and leased. So, there are two things which are to be considered in this connection. Now, with regard to the acquisition of land, I do not think that the new clause as it stands would mean the acquisition by the process of transfer by the cultivators of their own lands to the society.

With regard to the second question, which my learned friend Professor Kabir has raised, that is a point which ought to be very seriously considered. And the third point which Mr. Kamini Kumar Dutta has raised is also of very great importance. But I would like to add another point to be considered by my friends here, and that is whether it is proposed that such lands shall not be attachable in any suit of transfer for the recovery of rent. Mr. Kamini Kumar Dutta has laid stress on debt incurred after the vesting of the land in the society. Nothing has been said with regard to the payment of rent in respect of these lands. I do not know, Sir, whether the object of this acquisition or the reclamation——

Mr. PRESIDENT: Order, order. Although technically any member while addressing the House addresses the Chair, yet the Hon'ble Minister in charge of the Department is expected to listen to the speeches delivered here.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am extremely sorry.

Rai Sahib JATINDRA MOHAN SEN: Nothing has been said, Sir, as to the right of the society in these lands, whether these lands would be rent-free or revenue-free, whether revenue would be payable for the land to the Government or rent would be payable to the landlords. Sub-clause (*4*) would show that these lands would not be liable to attachment even for the rent which will fall due in respect of these lands. So, this is a very important point, and I respectfully invite the attention of the Hon'ble Minister with regard to this question. I would like to request you, Sir, to postpone the consideration of this amendment in view of the suggestions made by different members so as to enable the Minister to consider these. This is an important matter and it ought not to be decided offhand.

Mr. PRESIDENT: If the Hon'ble Minister desires to discuss the points raised in connection with this amendment with the members of the Opposition, I shall be willing to postpone it for the time being.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, there is only one point that I would desire to be cleared up. With your permission, I would request the Hon'ble the Leader of the Opposition what exactly he means when he says, "incurred after the vesting of the land in the co-operative society"? What is his idea when he says "vesting"? We have got, Sir, the word "vesting" in the fourth line of the third clause—"shall vest in the society." If his idea is that the member individually or rather personally had some land before he became a member of the co-operative society with respect to which he had incurred debts and if these lands were sold, then we have no objection. But if his idea is that after the society has acquired lands for the purpose of leasing out portions thereof to the members who have formed such a society and if these lands are to be sold for the debts of individual members which they might have, then certainly we object.

Mr. KAMINI KUMAR DUTTA: Sir, I am very strongly of opinion that for any debt incurred by a member of the society, the land of the society should not be attachable at all. It must be free from attachment for any personal debt of a member except the debt due to a society

or to a member thereof. But suppose, I am already the owner of some land, and I am heavily indebted. I give that land to a member of a co-operative society. That land must be liable for my prior debt. But if my object is to defraud the creditors, I will approach the society and say that I have got so much land, you take charge of this but my only request to you is to make it free from attachment! So, for any prior debt the land will be attachable according to the law of the land, but for any debt incurred after the land is vested in a society that land would not be subject to any attachment. I think that is the spirit of the amendment. If he incurs debt after he becomes a member of a society, his other properties will be liable, but this particular property will not be liable. At the same time, we must safeguard against that class of people who in order to defraud the creditors, may allow their lands to be vested in the society. In that case, those lands should be liable to attachment for prior debt. The object of my amendment is to have a real and *bonâ fide* colonisation as contemplated under this clause and not to make it a machinery only for helping some fraudulent debtors.

Mr. PRESIDENT: Order, order. I see there is no difference of opinion between the Government and the Opposition on this point, but the only difference seems to be about the wording of the amendment. So, I postpone the consideration of this amendment for the present and shall allow verbal alteration in the language of the amendment when it is moved later on.

Mr. HUMAYUN KABIR: Sir, in this connection, may the other two points be also considered—one point which was raised by Khan Bahadur Saiyed Muazzamuddin Hosain and myself and the other by Rai Bahadur Jatindra Mohan Sen with regard to sub-clauses (*1*) and (*4*)?

Mr. PRESIDENT: You may have a consultation with the Hon'ble Minister. If there is an agreed amendment acceptable to all parties, I shall allow it to be moved.

Clause 75.

Mr. PRESIDENT: Clause 75 stand part of the Bill.

Mr. HUMAYUN KABIR: Sir, I beg to move that for sub-clause (*1*) of clause 75 of the Bill, the following be substituted, viz.:—

"(*1*) The accounts of every co-operative society shall, at least once in each year and by such date as may be prescribed, be audited by an authority appointed by the Provincial Government and independent of the Registrar and the Co-operative Department in the manner prescribed by rules framed under this Act."

This amendment, Sir, raises a question of general principle as to whether audit should be under the control of the administrative head of the department. There has been a great deal of discussion on this point, and there is a very strong section of opinion in the country and I think also in this House which holds that audit and administration should be distinct items. We have given very great powers to the Registrar, and it is perhaps necessary that for the proper administration of the department some of these powers should vest in him. The examination and audit of the accounts of the different societies should, however, be in charge of a separate authority. Sometimes there have been difficulties on account of audit as well as administration being in the same hands. Generally, in other institutions and in companies as well, examination of accounts is done by an independent authority. Government also maintain a separate department altogether for auditing of its own accounts. If, Sir, the Government themselves maintain a separate department for the auditing of accounts, it shows that it is not a question of any distrust or any question of lack of confidence in the competence of the administrative head, but is done in order to keep these items distinct for better efficiency and also to establish a sort of dual control over the accounting affairs. The auditing authority checks the activities of the administration as shown in its accounts and the administrative head administers the department so far as the executive side is concerned. This is a generally admitted principle, and I think that the Hon'ble Minister should accede to what is generally the recognised principle almost everywhere.

Mr. PRESIDENT: Amendment moved: that for sub-clause (*1*) of clause 75 of the Bill, the following be substituted, viz.:—

"(*1*) The accounts of every co-operative society shall, at least once in each year and by such date as may be prescribed, be audited by an authority appointed by the Provincial Government and independent of the Registrar and the Co-operative Department in the manner prescribed by rules framed under this Act."

I think it is desirable that similar amendments may be moved at the same time and all of them may be discussed together.

Mr. NARESH NATH MOOKERJEE: Sir, my amendment is also on the same lines. I move that in sub-clause (*1*) of clause 75 of the Bill—

(*i*) the words "by the Registrar or" occurring in line 3, be omitted;

(*ii*) after the word "by" occurring in line 3, the words "an authority appointed by the Provincial Government and independent of" be inserted;

(*iii*) after the word "office" occurring in line 4, the words "or by such other officers" be inserted; and

(*iv*) for the word "him" occurring in line 4, the words "the Provincial Government" be substituted.

Sir, my point has been clearly enunciated by Mr. Kabir. I think that in all fairness the audit should be left entirely to an independent authority if we want to create any confidence in the minds of the public or its members. It would be an extremely unfortunate thing, Sir, if the audit of a society is left to the Registrar himself or to an auditor to be appointed by one who is the ultimate controlling authority and the administrative head of that department. Sir, I would like to put it to the House and I think my friends of the European Group will support me when I say that it is an unheard-of thing that the affairs of any company are audited by the head of the company itself. I do not think the public or even any member of that company or shareholder would be prepared to accept such a report as being of any value whatsoever. I, therefore, feel tha tthe Government should also go into this question very carefully. I know, Sir, that Government will come out with an explanation and say that the Government auditor will audit accounts. As a matter of fact, the Minister himself has dropped a hint to that effect on another occasion. I think, Sir, that this should be absolutely made clear whether the Government auditor audits or not it should be entirely left to the hands of the Provincial Government to appoint an auditor as I have submitted in my amendment.

With these words, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 75 of the Bill—

(*i*) the words "by the Registrar or" occurring in line 3, be omitted;

(*ii*) after the word "by" occurring in line 3, the words "an authority appointed by the Provincial Government and independent of" be inserted;

(*iii*) after the word "officer" occurring in line 4, the words "or by such other officers" be inserted; and

(*iv*) for the word "him" occurring in line 4 the words "the Provincial Government" be substituted.

Mr. AMULYADHONE ROY: Sir, my amendment stands on a different footing. It suggests the appointment of auditors by the Accountant-General, Bengal. I would refer you to amendment No. 402 in this connection.

Mr. PRESIDENT: Yes, there is a difference. All right, it will be taken up separately.

Khan Bahadur NAZIRUDDIN AHMAD: May I rise on a point of order? My point of order is that in this case the present practice is that the Government auditors do the audit work of these societies. The amendment has the effect of separating that audit staff and creating a new department altogether,—a fact which would involve additional expenditure.

Mr. PRESIDENT: Here in the two proposed amendments it is the Local Government who are to appoint auditors and not the Registrar.

Khan Bahadur NAZIRUDDIN AHMAD: It will involve financial commitments and as such require the previous sanction of the Governor.

Mr. PRESIDENT: But section 82 (*3*) of the Government of India Act, 1935, reads: "A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of a province shall not be *passed* by a Chamber of the Legislature unless the Governor has recommended to that Chamber the consideration of the Bill."

We have got the previous sanction of the Governor for the consideration of the Bill. Objection can only be raised at the time of the *passing* of the Bill if it involves any expenditure from the provincial revenues.

Mr. HUMAYUN KABIR: The point of order of the Khan Bahadur does not arise. The point stressed in this amendment is that the other authority proposed to be appointed by the Provincial Government should be independent of the Registrar. Government have many officers who can be deputed for this work. So, this point does not arise.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: I beg to move that in sub-clause (*1*) of clause 75 of the Bill, for the words "the Registrar" occurring in line 3, the words "chief audit officer responsible to the Secretary, Co-operative Department" be substituted.

Sir, I am moving this amendment in order to emphasise the necessity and even urgency of separating the two branches of work with which the Co-operative Department of the Government of Bengal has been concerned since its inception and with which it has been entrusted in the present Bill. The nature of work of the two branches is basically different. It is the function of the supervising agency to see if the working of the co-operative institutions has been according to the provisions of the Act and the rules and regulations made thereunder. It is also the function of this branch to undertake the work of publicity

and to inspire the co-operative bodies to new efforts and to new lines of activity. The duties of the auditors are, on the contrary, only to see that the accounts of the co-operative societies have been kept in conformity with the demands of law. It is for the auditors to find out if money has been raised, spent and collected back in an honest, straightforward and accurate manner. This function can be discharged by the auditors properly and efficiently only if they constitute an independent agency. The executive supervisors may be expected in normal circumstances to have some likes and dislikes in regard to certain co-operative institutions. They may be kindly disposed to some and adversely inclined to others. The audit officers, if they are placed under this general supervising agency, will find themselves in a false position. On this account, it is not unnatural that a demand has grown in the province for making the audit work separate and independent. In all other governmental agencies, Sir, independent audit of accounts has been in vogue in this country. The local bodies have to submit their accounts for purposes of audit to the examiners who are not only independent of these bodies themselves, but also of the Provincial Government. Even the work of auditing the accounts of the Government of India is entrusted to the agency controlled only by the Auditor-General who is independent in every sense of this Government.

It is, Sir, only in the fitness of things that the audit work of the Co-operative Department should be entrusted to an agency which would be independent of the Registrar. This latter functionary has been made, if I may repeat, the sheet-anchor of the system of supervision which the present Bill provides for in the co-operative organisation. It will make for greater efficiency and ensure better audit of accounts if the responsibility for audit was taken out of his hands and transferred to an officer whose status and position would be co-ordinated with his.

Sir, I think a case has been made out for the amendment which I am moving. I should only add that at the present moment when the whole co-operative organisation is being re-cast and re-shaped with the sole object of making the system efficient, it is but fit and proper that the Government should make due response to the crying demand for the separation of audit work from the function of general executive supervision.

With these few words, Sir, I move the amendment and commend it to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 75 of the Bill, for the words "the Registrar" occurring in line 3, the words "chief audit officer responsible to the Secretary, Co-operative Department" be substituted.

Mr. NARESH NATH MOOKERJEE: Sir, may I offer an explanation with regard to my amendment? The Hon'ble Minister seems to have been puzzled——

Mr. PRESIDENT: The Hon'ble Minister has said nothing to indicate that he has been puzzled.

Mr. Dutta, do you move your amendment No. 405?

Mr. KAMINI KUMAR DUTTA: It is practically the same as that of Mr. Humayun Kabir. So, I do not move mine.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I oppose these amendments——

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, before the Khan Bahadur speaks, may I know which of the amendments are being taken up together?

Mr. PRESIDENT: Amendments Nos. 395, 396 and 400; 405-409 and 410-414 are not moved.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: What about amendment No. 403?

Mr. PRESIDENT: It is a little bit different: so, it will be taken separately.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, as I was saying, I oppose these amendments. Certain theoretical considerations have been raised. The plain idea which underlies the amendment is that a company which manages its own affairs, should not have its accounts audited by its own servants: that is the real principle behind the amendment. That is plain and simple enough. With the broad principle involved in it, I fully agree and subscribe to it. But surely the position of the Government with regard to the co-operative movement is not that of a master and servant or that of a principal and agent or that of a manager of a business and its other servants. Co-operative societies are autonomous bodies and Government can make some rules and has certain supervising control. It has no other interest or power. In these circumstances, the analogy of a company, auditing its own accounts through its own servants or nominees, does not apply. The position of the Government in regard to the co-operative movement is that of a well-wisher or a paternal authority looking affectionately towards the growing movement. It is interested only in its welfare and its proper and good management. Government has no

personal or selfish interest in managing or mismanaging a particular society except so much as is necessary for the welfare of the society. Unlike a company managing its business, the Government is not entitled to appropriate the profits of a society nor is it bound to pay any losses. The analogy does not, therefore, hold. In fact, Government is a benevolent institution so far as these societies are concerned, and on behalf of Government the Registrar merely looks after its welfare. In these circumstances, I submit that the audit staff, which is under the Registrar, is quite competent to do this work without violating any known principles of accounting. Over and above this, and as a matter of fact, in the Co-operative Department, the audit staff and the staff which inspects the work of the societies are absolutely distinct from one another: the two services have been separated from each other. The audit staff has not even any undesirable departmental interest in the inspection staff. In these circumstances, the abstract principle which is sought to be introduced here, is already recognised and provided for. The auditors thus constitute a separate staff from the inspecting officers, though they are under the same Registrar. On these grounds, the argument of my friends opposite does not hold water. There may be something in the abstract idea: but, I believe that the entire movement is in a mess, and it will take all the energy, time and attention of a vigilant Registrar to put this movement on its feet. I believe, if we try to introduce, all at once, the principle which is sought to be introduced by this amendment, it will lead to endless dislocation and trouble and probably to confusion. I am not opposed to the idea suggested by Mr. Humayun Kabir, but I submit that this is not the time to introduce such an innovation. The movement will pass through a critical transition period. A change like the one suggested may lead to friction and complications. We should, therefore, wait and gain some experience. I agree that this principle should, if possible, be gradually introduced. I should, however, wait and see the effect of the radical changes we are effecting and allow things to settle down; there will then be ample time to decide whether any change in the audit staff is necessary.

On these grounds, Sir, I oppose the amendment.

Khan Bahadur ATAUR RAHMAN: Sir, in considering this amendment we must take into consideration our past experience. Why the co-operative movement did not prosper in this province in the past? Was it due to any defect of auditing or there were some other difficulties? I am sure nobody will be able to find fault with the auditing so much. It is the gross mismanagement of the societies which has been responsible for the failure of the movement and that is why

this Bill has been introduced. I said the other day that some 20 years ago the idea was that the society should be a full fledged autonomous body and should be given more freedom and also released from Government control. But experience shows that the managing body of the society has failed to guide its operation properly. That is why the Government have been compelled to introduce this Bill in order to have better supervision over the working of the society. It is apprehended that the auditing work cannot be done properly by the officer who is in charge of the administration of this department. In this connection, I would like to point out that like the manager of a firm or a managing director, the Registrar has no monetary interest. His duty is to see on behalf of the Government that the society is managed properly. When the audit report is submitted to him, it is the duty of the Registrar to satisfy himself that the funds have been properly invested and that there has been no defalcation. So, it is no good having another officer in order to go through the accounts. Of course, what is proprosed in these amendments is no doubt ideal, and it is better if the audit staff could be separated. But let us see how this system works and after working for some time if it is found that it is necessary to separate the audit, I think there will be no difficulty in doing so later on. But so far as the present condition of the society is concerned, the present stagnation is due not to the defects in auditing, but to various other defects which I need not enumerate now.

With these few words, I oppose the amendment.

Mr. KAMINI KUMAR DUTTA: Sir, I rise in support of the amendment. It is a principle accepted universally, I think, that the body controlling the administration should not also control the audit concerning the same administration. There is no doubt that the Registrar is the controlling authority of the co-operative societies. Clause 75 of the Bill, as proposed, makes him the controlling authority of the audit to see that the whole matter does not see the light of day. demned almost all over the world. It has been said that the Registrar has no pecuniary interest in the society. It is not a question of his being pecuniarily interested in the society or not. If there be any defect in the working of the society which the audit would disclose,—and a defect really reflects on the administration itself,—there would be a very natural desire on the part of those who are the controlling body of the audit to see that the whole matter does not see the light of day. I can say this from my personal experience. I know at least of two cases of defalcations—in respect of a big central co-operative society and of a town co-operative society. There was defalcation in one case of about one lakh and in the other case also it approached half a lakh. Unfortunately, the Crown did appoint me to prosecute these

two cases which ordinarily is not done. I had the painful duty of prosecuting which I ordinarily do not do. In one case, those persons who were involved in the matter of defalcation had to disgorge the amount. The amount was paid back and with the sanction of His Excellency the Governor the prosecution had to be withdrawn; and in the other case, the accused did not agree to disgorge and he had to go to jail for several years. In both these cases, I must say that I had the painful experience of finding that the administration instead of helping the Corwn Prosecutor was putting obstacles in his way in all possible ways. It showed that they were very anxious not to expose the defects of the administration in open court. In connection with these cases, I had to come in contact with some of the very high authorities of the Co-operative Department. So, from my own experience of these two cases and from my contact also with these co-operative societies,—as I happen to be a Chairman of one of the biggest co-operative societies for several years and I am connected with these things for a very long time,—I do admit one thing that in respect of village societies the function of the auditors is of a peculiar character. I know personally that in some of the villages the Secretaries do not know how to write accounts and the auditors themselves have to dictate the accounts and to write the accounts. There is absolutely nothing wrong in it and they rightly do it; but in respect of audit of the central co-operative societies where large amounts of money are involved, really there ought to be very strict audit. Of the two cases just referred to by me, I had personal experience being the Crown Prosecutor. Of other cases, my friends also know—I am not sure if in one case there was a case of suicide.

Now, in respect of central co-operative societies my own experience is that the auditors are more anxious to please the controlling authority than to audit properly. As a matter of fact, in one of the cases I had the painful necessity of prosecuting the auditor himself, but then in order to supplement evidence I had to discharge him and make him an approver in the case. So, it cannot be said that these auditors are absolutely innocent people. No doubt, it has been said that in case of limited companies, the companies themselves do nominate their auditors, but it is an open secret that even in the case of companies—I am not speaking of honest companies: there are companies and companies—there are some companies where auditors are tools in the hands of the managing directors and those appointed auditors are made to hide many defects. So, really in case of companies too, if the prevailing rule could be altered, it would have been better. Perhaps many of the bogus companies would be exposed if really independent auditors were appointed. So, in case of these co-operative societies, I can only say that the audit ought to be very strict. It has been said that really the future of the movement will depend not upon the audit but upon

efficient management. That is true. But strict impartial audit will inspire the confidence of the public and will attract honest people as well as investors. Now, there is the general impression that the audit of the co-operative societies is nothing but sham. It is the general impression that these auditors are nothing but the agents of those who are in charge of the administration of the co-operative societies, and that they act according to their dictates. If there had been an independent body of auditors, I think it would inspire greater confidence in the movement. It will improve the whole atmosphere and will improve the work of the societies. It may be urged that at this stage the Registrar ought to have some control over the auditors. Why this control is wanted? Those auditors who will work independently of the Registrar, will be officers of the Government too. There is nothing to suspect about them. It is all the better for the Registrar that he will have an independent body of persons who will reveal to him the true state of things in the societies. We know that subordinate to the higher authority really means subordinate to him who is immediately superior to him. Subordinate to the Registrar means subordinate to the Assistant Registrar, a person in authority on the spot. So, practically the auditor is subordinate to those who control the administration and the whole principle is a vicious one. Instead of any sort of handicap to the Registrar, if the audit is vested in an independent department, I think, it will rather help the Registrar more and besides helping the growth of the movement. My own idea is that this provision which has been proposed in clause 75 of the Bill, ought not to be treated in a light-hearted manner. It ought to be seriously considered, and looking to the future of the movement and to the purity of the administration of the co-operative societies, which has already earned a very bad repute, I am definitely of opinion that the Audit Department ought to be absolutely independent of the administrative control.

Khan Bahadur M. SHAMSUZZOHA: Sir, I rise to oppose the amendment moved by my honourable friend. Sir, we the members of this House have had sufficient time to ponder over the serious problem connected with the co-operative movement in this province and for the last several days we have discussed many vital problems connected with it. As I have said previously, this movement requires overhauling, but the task of overhauling must fall on a person who should be statutorily given powers almost like Hitler and that Hitler must be benevolent Hitler, benevolent in respect of reviving these moribund societies and also giving tone and vigour to the members constituting the managing committees of the societies.

Sir, we have found from our experience of the working of the Act and the Rules that prevailed before this, namely, the Act of 1912, that the Registrar was not invested, nor the Government itself was invested

with sufficient powers to guide the movement in its proper course. In fact, Sir, the authority of the Government as well as of the Registrar having been absent in most essential matters so far as the organisation, development and all other things connected with the movement were concerned, the movement could not grow as it should have done. One of the most outstanding facts in this connection has been that the societies themselves have mismanaged their affairs. In my own district, of which reference has been made by the Leader of the Opposition, by the hypnotic influence of the leading personalities the people were so much hoodwinked that they could not suspect anything wrong in the working of the district central bank. Even those gentlemen were found by their later actions to have altogether forfeited the confidence not only of the public, but also of the Government and also of the authorities connected with the movement. When we analyse this, we find that those who were elected to preside over the destinies of the societies did not themselves discharge their duties to the best interest of the movement and since we ourselves have defaulted to such an extent, it is no use decrying the Government or the Registrar. Even those auditors who, according to my honourable friend, have no independence at all and who have to look to the Registrar for their service, had in several instances pointed out glaring defalcations to the directors and members of the managing committees, who took care and pains to see that these were not divulged and no steps were taken to remove those defects or to rectify those irregularities. So, Sir, in spite of their intentions, in spite of bringing glaring facts to the notice of the authorities by the auditors, the societies themselves did not take any action thereon. So, it is no use, in my opinion, quarelling over the question of having an independent auditing agency. It is necessary that Government should take sufficient powers and the Registrar must be given sufficient powers in order to direct the co-operative movement in the proper channel. The present Bill has been drafted with that end in view. On a perusal of the necessary provisions in Chapter VIII, my friends will be convinced that specific provisions have been made in sections 77 and 78 by which definite statutory duties have been entrusted to the auditors themselves in order to see that the audit is done in a way so as to bring out all the defects and irregularities that may come to their notice in the course of their inspection or auditing. Thereafter, the auditor himself has to submit a report to the Registrar, and the Registrar himself has to see after giving opportunities to the societies themselves that the defects and irregularities pointed out in the audit note are rectified. Government also have been given power to see that such defects and irregularities are removed. So, the tenor of the present legislation is that Government have been actuated by the highest of motives and the Registrar has been given powers to see that the societies are conducted in a business-like manner and that the auditing is done in a way which will disarm all suspicion and bring the movement to a success.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I rise to support the amendment which has been moved by my honourable friend, Mr. Humayun Kabir. I fully agree with Khan Bahadur Ataur Rahman when he says that the societies have been mismanaged and that this Bill has been brought in to rectify the past defects. No one can deny that the proposed Bill is an improvement in that direction. But, Sir, at the same time everyone will admit that auditing is one of the factors responsible for the failure of the societies in the past. Had auditing been done regularly and at the proper time, I think many misappropriations and other irregularities might have been checked and the societies would not have been placed in such a deplorable condition. Now, Sir, the question is whether auditing should be under the control of the Registrar or under the control of the Provincial Government. I am of opinion that it is neither desirable to place the audit under the control of the societies in which case the auditor will be influenced by the societies themselves nor is it desirable to place it under the control of the Registrar because there is a suspicion in the minds of the public that the Registrar may unduly influence the auditors in their work. What is desirable is to have an independent auditing agency, not under the control of the Registrar or of the societies themselves. Khan Bahadur Naziruddin Ahmad has said that the auditing staff should not be an independent body, but ought to be under the control of the Registrar. Our idea is that the auditor should be appointed by Government as an independent body and should not at the same time be under the control of the head of the department, as is the case with local bodies such as the municipalities, district boards and local boards, where the auditing staff, though appointed by Government, is not at the same time under the control of the particular department concerned. There I have seen that the management is more efficient than is the case with the co-operative societies, and I think that if the same principle is adopted with regard to the co-operative department, it will improve the condition of the societies. When there is some suspicion in the minds of the public, what is the reason for keeping the auditing agency under the control of the Registrar? Is there any special advantage in the auditing work being kept under him? Why are the Government so very anxious to keep the work of auditing under the control of the Registrar? This excessive anxiety naturally gives rise to misgivings in the minds of the public. Moreover, when an auditor is under the control of the Registrar, he may in a particular case hesitate to exercise his independent judgment and may even be forced to act according to the orders of the Registrar. But, if he is placed under the control of the Provincial Government, he will never hesitate to give his independent view in every case. I admit, Sir, that the Registrar with his wide experience of the inner working of the co-operative societies might be able to guide the audit staff as to how to do their work best. But even if the present amendment is accepted, there will be nothing to prevent the Registrar

from giving the benefit of his experience to the auditors who may be directed to refer to him whenever confronted with any difficulty. Therefore, I think that the Registrar should be empowered to control the activities of the societies, but with regard to auditing it should be done by Government as is the case with the local bodies.

Maulvi ABUL QUASEM: After, Sir, the very clear and convincing speech that was delivered by Khan Bahadur Ataur Rahman who spoke with knowledge and the authority that attaches to knowledge, I thought there would not be any speech in support of this amendment. I have carefully listened to the speech delivered by Mr. Kamini Kumar Dutta. He has said time and again that the Registrar is the controlling authority; but in order that a controlling authority may control effectively, he has got to see that the societies do observe the rules which have been promulgated for their proper administration, and it is through the agency of the auditing staff that he comes to know whether the societies are working according to those rules. If he has not got a body of well-trained auditors under his control, how can he effectively control the societies? If you deny him the agency of an audit system under his control, I believe the powers vested in him will be nullified. Now, Sir, there is a suspicion lurking in the minds of some of the members opposite that the Registrar cannot be trusted to do his work well, honestly and efficiently, as though he would always be trying to slur over the short-comings of the societies. What warrant is there for holding this particular high official of Government in such suspicion?

Mr. AMULYADHONE ROY: Past events?

Maulvi ABUL QUASEM: Yes, I am referring to that.

Sir, Mr. Kamini Kumar Dutta has said that while he acted as a Public Prosecutor he had to prosecute some delinquent persons connected with this movement. I take it, Sir, that he as Public Prosecutor did not initiate the prosecution. Somebody else did that. Perhaps he was the person whose conscience was smitten because he could not take the initiative in the matter, but he was simply a machine, a tool, in conducting the case against the delinquents concerned. Therefore, the credit did not lie with him, but with other people whose business it was to see that wrong-doers should be punished. I feel that if in the past one or two such cases had occurred, that is all the more reason why the head of the department should not be suspected and distrusted in a way that he could not be depended upon to carry out the work of supervision entrusted to him. If the underlying trend of the speeches was really to be accepted as having been seriously suggested, what would be the position if the control was placed with the Provincial Government? Here is a high official entrusted by the statute with

certain statutory duties. Now, Sir, the result of this amendment would be that there must be some spies whose duty it would be to shadow all his activities. If you set up an independent body who will carry on auditing through its own auditing agency, what does that mean? It means that you do not trust your own officer whom you have entrusted with so much power for the successful working of the co-operative movement. You want an independent audit system to go into the accounts of the societies, but who will be looking into the audit reports of this independent auditing staff to bring the irregularities committed to the notice of the societies concerned and take necessary action thereon? It is the Registrar. If you feel that the Registrar cannot be entrusted in this matter, then what is the use of submitting the audit reports to him?

Mr. HUMAYUN KABIR: On a point of information, Sir. Does the honourable member suggest that the Ministers are not to be trusted because the accounting of the Provincial Government is done by an authority independent of that Government?

Mr. ABUL QUASEM: To that, Sir, my answer is that that is a different question. Here the proposal is that the Provincial Government, as distinct from the Registrar, should have power to control the auditing staff, that is, the auditors should not be under the final control of the Registrar. But so far as the auditing of the accounts of the Provincial Government is concerned, the Accountant-General, Bengal, controls the whole system. He is an officer who is not under the control of the Government of Bengal, but under the control of the Government of India. But here you are not proposing that; here you are not proposing that the Imperial Government should control the audit system of the co-operative movement. If you had done that, I could have understood the reason behind it; but you are proposing that the Government of Bengal should control the audit system and not the Registrar, and I cannot understand what reasons actuate you to do that. If in the past certain delinquencies were committed—and Mr. Kamini Kumar Dutta has said that very high people were responsible for slurring over and overlooking them, apparently meaning some high authority in the Government—the Opposition has probably a suspicion that the Government cannot be trusted. If that is so, what good is there in suggesting that Government should control the audit system and not the Registrar? In that case, the logical proposal should have been that so far as auditing is concerned, that should have been done by a body not under the control of the Government of Bengal but under the control of a different body.

Now, Sir, many things have happened in the past in this unfortunate province of ours. Take the case of the Bengal National Bank. Here the people who defalcated the money and thus ruined the bank

were very big, influential and cultured people, even though you had your independent auditors there—a body of chartered accountants, incorporated accountants and others. And, Sir, wherever defalcations have occurred, it is our sad experience, and we must hang down our heads in shame, that it is the educated and cultured people who were the worst culprits but who, after doing incalculable harm to many innocent people who had placed their hard-earned money with the bank, tried to shield themselves from their own sins of omissions and commissions. Therefore, I say in all seriousness that what is wanted is to create a healthy and strong public opinion in the country so that such delinquents may not flourish as heretofore. But public opinion in our country, Sir, is weak and slurs over and condones such delinquencies and allows the delinquents to flourish with impunity. Therefore, I am definitely of opinion that an amendment of the nature suggested will be no remedy for such state of things. Whenever a thing like that does occur, no matter whether it is the Registrar or the Minister who does it, public opinion should be strong enough to go against it ruthlessly and should be no respecter of persons, however highly placed they may be, so that their delinquencies may not be slurred over or condoned. If we can create such a strong public opinion in the country, then there is hope for institutions like these to flourish and achieve success, but not until that position is attained, can we hope for that success simply by setting up an independent auditing agency which will only be a standing slur on your own officer by withdrawing all effective control from him. Sir, I oppose the amendment.

Mr. PRESIDENT: Order, order. The House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 6th September, 1940.

Members absent.

The following members were absent from the meeting held on the 5th September, 1940:—

(1) Mr. Kader Baksh.

(2) Rai Bahadur Keshab Chandra Banerjee.

(3) Mr. Bankim Chandra Dutt.

(4) Mr. Narendra Chandra Datta.

(5) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(6) Maulana Muhammad Akram Khan.

(7) Mr. W. B. G. Laidlaw.

(8) Dr. Radha Kumud Mookerjee.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 6th September, 1940, at 2-15 p.m. being the twenty-fifth day of the Second Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Election of Presidents of the Union Boards of Bankura.

99. Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(a) the dates, times and places of elections of Presidents of Union Boards in the Sadar Circle in the district of Bankura;

(b) whether the Presiding Officers were empowered under rule 29 of the Election Rules under the Village Self-Government Act by the District Magistrate, and the special meetings were convened under rule 31 of the said Rules;

(c) whether rule 1 of the Rules regulating the conduct of meetings of Union Boards was complied with;

(d) whether the minutes of proceedings were entered in the books of the respective Union Boards;

(e) if it is a fact that the Circle Officer, Sadar, has compiled Union Board Manual in Bengali and that the said officer violated rules at the time of the elections of the Presidents;

(f) whether it is a fact that Babu Baneswar De died before election and that his name was published in the *Calcutta Gazette* as an elected member of the Jamtara Union Board within police-station Chhatna, and that a notice was also sent to his address to attend the special meeting convened for electing a President; whether any one has been elected in his place; if so, when the bye-election was held; and

(g) how many times the Circle Officer visited the Jamtara Union Board between October, 1938, and June, 1939?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, Minister in charge of the Public Health and Local Self-Government Department): (*a*) A statement is laid on the table.

(*b*) Yes.

(*c*) and (*d*) No.

(*e*) The Circle Officer is reported to have compiled such a manual. There was no violation of rule 1 of the Rules regulating the conduct of meetings of Union Boards as that rule does not apply to a meeting for the election of a President convened under rule 29 of the Election Rules. Rule 29 of the former Rules relating to the recording of the minutes of proceedings, however, applies to such meetings, but it was not complied with under a misapprehension.

(*f*) Yes. No one has been elected in his place.

(*g*) Thrice, viz., on 29th October, 1938, and 15th February and 6th May, 1939.

Statement referred to in the reply to clause (a) of question No. 99.

(1) On the 7th July, 1939, at Edward Memorial Hall, Bankura, for all Union Boards of Sadar thana, except Kenjakura Union Board.

(2) On the 8th July, 1939, at Dalpur Dak Bungalow for Kenjakura Union Board and all Union Boards of Chhatna thana.

(3) On the 6th July, 1939, at Onda Dak Bungalow for all Union Boards of Onda thana, except Onda Union Board.

(4) On the 21st July, 1939, for Onda Union Board at the office of the Union Board.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state if the misapprehension referred to in answer (*c*) has been rectified? If so, how?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: How it can be rectified?

District Board of Midnapore.

100. Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) whether the present District Board, Midnapore, is running continuously for over 7 years and has recently passed a

resolution for a further extension of life; if so, whether that resolution has the sanction of Government? How long will the present Board continue;

(b) what was the total revenue collected by the Midnapore District Board in the years 1935-36, 1936-37, 1937-38, 1938-39, and 1939-40; what were the arrears of collection in those years;

(c) the amount of money spent for maintenance of roads in the different subdivisions during the years mentioned above; whether any amount was spent in any of the subdivisions on new projects for improving communications;

(d) the amount spent on medical relief in the different subdivisions during the period;

(e) the amount spent on education in the different subdivisions during the period; and

(f) the number of tube-wells sunk in the different subdivisions during this period?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (a) The present District Board of Midnapore has been in office since the 10th January, 1934. It has recently passed a resolution recommending the postponement of the election of the Jhargram Local Board, which, if accepted by Government, will automatically result in an extension of the life of the District Board. The matter is under the consideration of Government.

(b) A statement is laid in the Library. The road and public works cesses, which form the principal sources of revenue of the District Board, are not, however, collected by the Board.

(c) to (e) The information cannot be supplied as the accounts of such expenditure from the District Fund are not kept by subdivisions. A statement showing the amounts spent for the maintenance and construction of roads by the different local boards of the district during each of the years in question, is laid in the Library.

(f) A statement is laid in the Library.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state why the Midnapore District Board is being allowed to continue for the last seven years, the usual term being five years?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state on what ground the Local Board has again asked for postponement of its election?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: On account of war, I am told.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if it is a valid ground for postponement?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The matter is under the consideration of Government but it does not mean that Government will accept it.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state by what time it will be possible for the Government to come to a decision?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Within a very reasonable time.

Mr. RANAJIT PAL CHOUDHURY: Arising out of the supplementary question just now asked, will the Hon'ble Minister be pleased to state if Jhargram is the only subdivision which has been affected by the war so as to require postponement of the election?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is not Government's concern. If the Jhargram Local Board desires to put in a memorial on this ground, Government cannot help it.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if he does not consider it a frivolous ground for postponing the election?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government have received the memorial but whether they will accept it or not that is a different matter.

Maulvi ABUL QUASEM: Will the Hon'ble Minister be pleased to state when was the election of the Jhargram Local Board due to come off?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Board has been holding office for 6½ years; so, I think it has outlived itself clearly by 1½ years.

Maulvi ABUL QUASEM: In view of the fact that the consideration of the memorial of the Jhargram Local Board will take a long time, will the Hon'ble Minister be pleased to state how long will the life of the present Board be prolonged?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, these are all assumptions on the part of the honourable member. Why should it take a considerable time?

Maulvi ABUL QUASEM: Will the Hon'ble Minister be pleased to state if Government do not think it desirable that such memorials, from Local Boards which have outlived by 1½ years, do not warrant any consideration, and, if so, why should they give any consideration to them?

The Hon'ble Sir BIJOY PRASAD SINGH: If any local body comes up to Government with a reasonable request, Government are certainly bound to give serious consideration to that request.

Maulvi ABUL QUASEM: Will the Hon'ble Minister be pleased to state if it is a reasonable request on the part of a Local Board which has already outlived by a year and a half to ask the Government to sit in judgment over the matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is exactly the point on which Government is giving their consideration.

Maulvi ABUL QUASEM: Do Government think it a reasonable request of a body which has outlived by a year and a half?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: My honourable friend is under a misapprehension. I have already said that is exactly the point which Government have been considering and it is not possible to say "Yes" or "No" before the consideration is over.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if it at all requires consideration?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Most certainly it does.

Mr. RANAJIT PAL CHOUDHURY: Sir, the war started a year ago and the Local Board has outlived itself by nearly a year and a half —that is, they had already outlived nearly by six months before the war. May I know on what ground do they make an excuse on account of the war?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government are not in a position to answer that question.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to say what is the ordinary life of a District Board?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Five years according to the new rules.

Khan Bahadur NAZIRUDDIN AHMAD: Will the Hon'ble Minister be pleased to state if the Local Board is not encroaching on the life of the next Board by outliving itself for one and a half years?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the next Board does not exist now and nobody can encroach on its time.

Khan Bahadur NAZIRUDDIN AHMAD: Does not this act of postponement delay the birth of the next Board?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The next Board does not exist now and how can one encroach on the life of a Board which is not yet born?

NON-OFFICIAL RESOLUTIONS

Mr. PRESIDENT: The House will now resume further discussion of the following resolution moved by Mr. Lalit Chandra Das, namely:—

> "This Council is of opinion that the Government of Bengal should move the Government of India to establish as early as possible a ship-building industry in Bengal and also to encourage it by the grant of construction bounties and by advancing cheap loans and assisting the acquisition of suitable sites and by guaranteeing all Government and Port Trust works in connection with shipping to associations of competent Indians formed into companies for the building of ships in Bengal".

Maulvi ABUL QUASEM: Sir, I ask your leave to say a few words on this resolution.

The other day while listening attentively to the speeches that were being delivered in support of this resolution and also against it, I marked particularly the speech delivered by Mr. Ross of the European Group. Mr. Ross took umbrage at certain remarks made particularly by Mr. Humayun Kabir. He seemed to remark that something like racial complex was given expression to by Mr. Humayun Kabir——

Mr. J. B. ROSS: On a point of order, Sir. I made no reference to the remarks made by Mr. Humayun Kabir. My remarks referred to the racial complex with regard to the terms of the resolution, as moved by the mover.

Maulvi ABUL QUASEM: The fact remains that Mr. Ross used the words "racial complex" and I distinctly heard the expression. Sir, Indians are not racial. Whenever they were in difficulties, they have asked Government to do certain things and in doing so they could not help bringing forward the remissness of the Government in the past about these things. The reason is a historical one. The relation between England and India has been that of the governor and the governed. Indians, whenever they have asked for a new thing which has been or is being enjoyed by other countries, cannot but refer to what Governments in other countries have done and that brings in the question of relationship between England and India. It is a historical relation. In India it is an undoubted fact that many things which should have been done have been left undone and whenever Indians feel aggrieved, they cannot but refer to the remissness and neglect on the part of the Government and that Government is the Government of Great Britain in England. Whenever Indians have got to find fault with their Government, the question of race does not necessarily come in, but the nature of Britain's relationship with India does come in. It is an undoubted fact that in many vital and material respects the Government in India has not been carried on in the past primarily and in the best interest of Indians. It is an undoubtedly historical fact that many industries in India have been deliberately killed in the interest of the industries of Great Britain. So, Sir, if in this respect Indians, while discussing problems such as the one mooted in the resolution before the House, refer to the remissness of the Government as established in this country by Great Britain, I think no Englishman should look upon it as an expression of racial complex: that is unreasonable. I can understand that it hurts Englishmen to hear such criticisms of their Government. But if it is natural for them to feel hurt, I humbly submit that it is equally natural for an Indian to feel aggrieved at the remissness of the British Government in the past and also to express that feeling. I noticed that Mr. Ross was angry when he said that he opposed the resolution not because of the remarks of Mr. Humayun Kabir but because of the racial complex involved in the resolution as moved by the mover. Sir, this fact has got to be borne in mind. Indians do not quarrel with Englishmen as such—Indians of whatever class, caste or creed. They do find fault with the Government as established and as carried on in this country by Great Britain. That Government, no reasonable minded Englishman would perhaps deny, has been very much remiss in many vital matters in the past. Look, Sir, to the condition of India at the present day as a result of this war. It is an undoubted fact that the short-sighted Government in Great Britain, which was trying for conciliation and appeasement with the irreconcilable and the unappeasable, had left Great Britain totally unprepared to meet the onslaught of this war. While England was swearing by the League of Nations and was

perpetually talking of peace, appeasement and conciliation and things like that, and while in India even in schools the boys were being taught that war was an evil thing, that it should be banished for ever and people should be taught only to think and talk of peace and nothing else, Germany after her defeat in the last war and after the advent of Hitler was furiously trying to rehabilitate herself by building up a colossal military machine. It ought to have been known to Great Britain that Germany had furiously rearmed in the course of 6 or 7 years, that Germany had been a transformed nation, that it had so armed itself that before it nation after nation would fall. And what has Great Britain been doing in the meanwhile? They were only talking of peace, conciliation and appeasement. I have no fault to find with Great Britain so far as Great Britain alone is concerned, but India has been a possession and a dependency of Great Britain and Great Britain's misfortune is now India's misfortune. India is hopelessly unprepared. Now, if India is attacked to-day by the neighbouring eastern country which is alarmingly becoming an expansive nation, how will India meet that attack? You have left India crippled, enfeebled, weakened, resourceless; you are responsible and if we Indians find fault with your Government you should not in mercy to us read any racial complex in our attitude. We feel that Great Britain has been neglectful and remiss in the past so far as the building up of a strong India is concerned. Now a section of Englishmen are very much anxious that India should rearm herself as much as possible. That cannot be done in a day. India's helplessness remains. Here is a particular resolution which seeks to bring to the notice of all that the ship-building industry should be carried on by Government and Government should encourage it by all possible means. In commending this motion certain speakers referred to the remissness of the Government in the past. Why should Englishmen find fault with those speakers if they do refer to the fact that it was due to the British Government's fault in this country that such a ship-building industry has not so far developed?

Mr. J. B. ROSS: On a point of order, Sir. There are no Englishmen in this group. They are all Scotsmen. (Laughter.)

Mr. ABUL QUASEM: Well, Sir, I mean by Englishmen the people of Great Britain. Indians are not imbued with hatred of Englishmen as such. Englishmen are perfectly welcome in this country. They have done good and great work for this country. They are perfectly welcome to remain as citizens of this country. There can be no question about that. But Indians are trying to forge ahead and if they find fault with the Government as established in this country, Englishmen should not find fault with them on that account. They should calmly

ponder and frankly admit that their Government has been remiss in the past, that the Government of India has been carried on in the past not so much in the interest of Indians themselves as for the interest of Great Britain herself. If they admit that fact, many a misunderstanding would be removed——

Mr. PRESIDENT: Order, order. The honourable member is now repeating his old arguments.

Mr. ABUL QUASEM: Sir, we cannot sometimes help repeating. There are things which need repetition.

Sir, Indians are not imbued with hatred of Englishmen as Germans are of the Jews. That is what may be called racial complex. Indians fortunately are not afflicted with any such disease as the Germans are with respect to the Jews. Then, the fact remains that India is to-day very deficient, very backward in the matter of industry, in the matter of commerce, and that fact has to a great extent to be attributed to the remissness of the Government as established in this country by Great Britain.

Now, Sir, coming to the resolution itself, I frankly confess—here I speak only for myself and not on behalf of the party to which I have the honour to belong—that I do not myself like this resolution as framed. We, Indians, in the past as legislators have been in the habit of bringing forward motions like this in the Council and expressing an opinion that this should be done or that should be done, without knowing how it is to be done, without suggesting ways and means of implementing our expression of opinion in the shape of resolutions. I had occasion to find fault with some such resolution moved in this House earlier during this session. Here I find a similar resolution moved. I can well understand the motive behind this resolution. Here is a pious resolution, but the hard fact is that if you do sincerely believe that in Bengal there is a real opportunity of building up a flourishing ship-building industry, you can press Government to afford every facility so that such an industry may be built up. But where is the demand and where is the preparation in Bengal for such an industry? Well, Sir, only a Bombay gentleman has been interesting himself in this affair to my knowledge—his name, if I mistake not, is Mr. Walchand Hirachand. He first turned his attention to Bengal. He came here—I do not know how far this is correct—and he tried to gain facilities from the Government of Bengal in the matter of starting a ship-building industry here. I am told Government was sympathetic but a particular body called the Port Trust of Calcutta was very unsympathetic, nay, hostile. I do not wish to say anything hard against that body, but if what is suggested and alleged against that

body is true, then that body should be condemned. I am at one with Khan Bahadur Ataur Rahman when he said that this Calcutta Port Trust is a body which is impervious to Indian public opinion, to Indian public feeling, which has barred and bolted its door against the entrance and admission of Indians. I feel, Sir, that if that body was hostile and if its hostility led Mr. Eirachand to turn his attention to some other port of India for the building up of a ship-building industry, then this House should express its condemnation in no uncertain language of the attitude of the Calcutta Port Trust.

Coming to the point that I was making, this resolution should have some reality behind it. If Mr. Lalit Chandra Das could say that there is a body of Bengalees who have got the necessary finance with them, who are keen and eager to establish a ship-building industry in Bengal only if the Government would come forward with necessary encouragement and help and facilities, if he could show a thing like that, I would at once vote with him. Is there a body of Bengalees who are really prepared now and here to start a ship-building industry? In the first part of the resolution you say that the Government of India should establish a ship-building industry in Bengal. In the next place you say that the Government of India should give subsidy or subvention to such an industry in Bengal. These are two distinct things. In the first part you expect that the Government of India should specially select Bengal. Bombay might claim the same privilege, and Madras can also claim the same privilege. Do you expect that the Government of India as constituted at present will start ship-building industries simultaneously in these three maritime provinces? Or do you expect that constituted as the Government of India is now you can only have a ship-building industry established in some part of India or other which is most convenient from the Government of India's point of view? You ask the Government of India to start ship-building industry in Bengal to the exclusion of other provinces. Is there much meaning in it? Will it have much reality behind it? Will Government of India consider it very seriously so far as that part is concerned?

So far as the second part is concerned, it would seem to the outside world that in fact in Bengal there is a crying demand of a ship-building industry and that Bengalees have formed an association with the necessary resources in men and money and are ready to start an industry provided the requisite Government help is forthcoming. Where is there a body of Bengalees who are really interesting themselves in the ship-building industry? If there is not, what is the use of asking Government in the shape of a resolution to make a grant or subsidy to a body of men who may at some future time form themselves into an association? Are you thinking of the immediate present or of the distant future?

I feel, Sir, that analysed in this way this resolution has not much reality behind it and I do not see any point in passing a resolution such as this. But, Sir, I find many of my colleagues—almost all of them—are in favour of passing a resolution like this and, therefore, subject to the remarks that I have made, I support the resolution.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Mr. President, Sir, it gives me great pleasure to have this opportunity of supporting the resolution which my friend, Mr. Lalit Chandra Das, moved the other day in this Council.

India is *par excellence* a maritime country, three of its sides being washed by the seas. Both for defence against external attack and for the stimulation and development of its external trade, its shipping strength should grow as it has grown in all other countries of the world. It is unfortunate that while the old ship-building industry, which flourished in India in pre-British days was killed in the new regime, no attempt has been made during the last 200 years to introduce it on a new basis.

My friend, Mr. Ross, has suggested that as India was concerned in pre-British days only with the building of wooden vessels which would be of no use to-day, no harm has been done to this country by killing it. Sir, in every country including that of Mr. Ross, wooden ships were in use decades ago. But, while in other countries these wooden vessels were gradually replaced by modern ships according as new inventions were made and new development in science took place, in our country, Sir, while the old industry was destroyed no new one was substituted in its place.

It is, Sir, a great pity that as a result of nearly two-hundred years of British rule, India has been kept absolutely dependent for almost every kind of manufacture upon other countries. No state in the modern world can protect itself from foreign aggression unless it is highly industrialised. Modern warfare is dependent on industrial output. To-day, Great Britain has found itself handicapped by dearth of warships, merchant tonnage, airships, and munitions in general. And it is a tragedy that India is absolutely dependent for its protection from external danger on Great Britain which is itself so handicapped. If shipyards had been properly developed in this country, our position would not have been as helpless as it has turned out to be. Great Britain also could have drawn on our resources at this time of crisis.

It is no use, Sir, bemoaning the past. But, it seems to me a matter of regret that even now our rulers have not been awakened to the necessity of developing Indian resources and skill. The War has stimulated the ship-building industry of Australia as it was never stimulated before. While Canada is supplying aeroplanes, Australian shipyards are buzzing with activity for the production of merchant and

war vessels. In India, however, the curtain of silence covering the attitude of the Government has not yet been tucked up. I only hope that the Government will not long remain as indifferent to ship-building industry as it has been so long.

Sir, my friend Mr. Abul Quasem was asking if there are any capitalists who would come forward to invest for ship-building industry. I know, Sir, there are some capitalists in East Bengal like Bhagyakul who are contemplating ship-building. But those ships would be river-going ships. If they are supported by Government, I think it will be possible for them to build sea-going ships. Sir, Bengal is in danger of Japanese invasion from her eastern side. So, we must start ship-building centres. Not only we should have ship-building centres in Madras and Bombay, but we should have a ship-building centre in Bengal also.

With these few words, Sir, I support the resolution.

Khan Bahadur NAZIRUDDIN AHMAD: Mr. President, Sir, this question of the establishment of a ship-building industry in India has raised a little controversy; some amount of heat too. I believe, in making his remarks, Mr. Humayun Kabir had no thought of hurting the feelings of the members of the European group, and that he only wanted to give out his own conception of the state of affairs which had led to the complete collapse of the ship-building industry of Bengal in the past. I think, Sir, whenever one nation rules over another, and the subject nation tries to raise its head and to think on equal terms with the ruling nation and talk a little freely, it is very natural on the part of that ruling nation to be resentful. Nations behave like individuals in this respect. There is nothing unusual, nothing blamable in it; rather, it is very usual and a very common human weakness. A dominated nation rises gradually and imperceptibly under the very eyes of the ruling nation; their rise to their full stature happens before them every day; and, as a father or an elder brother cannot perceive the growth of his son or younger brother from day to day, so the dominant nation fails to realise or visualise the actual growth in the stature of the subject nation. The subject nation daily acquires intellectual and political capacity, but the ruling nation fails to realise this. In the circumstances, whenever the subject nation outgrows its environments and tries to assert its position and claims its rightful place in the country, the dominant nation, somehow or other, thinks that their aspirations are unjustified and therefore resents it. It is the resentment of monopolists against the intrusion of competitors. In this view, I think the remarks of Mr. Humayun Kabir were perfectly natural; but as I have explained a moment ago, the resentment of Mr. Ross was also not unnatural, though, I must say, his resentment need not have found any expression at all. But when the resentment was expressed, I think

it need not again have been criticised so adversely in the House too. Sir, I believe this phenomenon of Mr. Ross's resentment is not exclusively confined to the European section of the House. This phenomenon is to be found in other parts of the House too. My Hindu friends have made tremendous sacrifices for the cause of our country; they have suffered and sacrificed their lives in her cause; they have made rapid strides in the field of progress. But when under their very eyes their younger brothers, I mean, the Muhammadans, are gaining in outlook and political capacity and raising their heads, asserting themselves and claiming a share of the advantages which have already been secured by our elder brothers,—the Hindus,—they also have displayed a similar kind of impatience and resentment. I believe, this is only human, and I think I can blame neither Mr. Ross nor Mr. Lalit Chandra Das for that; but the attitude of the Hindus towards the Muhammadans and of the Britishers towards the people of this country has to be read and understood in that light. These are only different manifestations of the same political phenomenon. Whenever a community or a people resents or criticises the action of their so-called superiors, there is bound to be some amount of intolerance and resentment, but, nevertheless it should be understood and tolerated in the right spirit.

Sir, I need not go over the ancient history of ship-building in Bengal. It will be enough to say that in the time of Akbar, Bengal was the home of ship-building in India, and her maritime importance was so great that a famous Venetian traveller said in 1565 that there was such an abundance of ship-building material in Bengal that the Sultan of Turkey found it profitable to have his ships built at Dacca than at Alexandria. Bombay also had its share in the ship-building industry and made ships for ordinary commerce as well as for the navy. But in the ship-building industry, Bengal held the premier position at that time. Then, in course of time there was the advent of steel and steam, and on account of the failure of the industry to adapt itself to new environments, there was the inevitable slackening in the activities of this great Indian industry. What actually happened at that time is a matter on which there has been some difference of opinion in this House. Mr. Humayun Kabir thinks that the Government of the time failed to supply the necessary stimulus to this great national industry. Mr. Ross thinks that we must not blame the British Government for not producing steel in India at that time. I, however, submit that that was a period of far-reaching transitions. The so-called English Government of the time was no Government in any real sense of the term. At first it was somewhat of a mixture of a trading concern and a Government in which the trading activities predominated. To quote Lord Macaulay, "the Company was at first a great trader and a petty prince." In fact, it was then difficult to clearly mark out its political activities. At first, the Company was a body

of traders; its political functions were mere auxiliary to its commercial functions. Its ruling instincts were a matter of slow and later growth. Its governing instincts and political power grew by slow evolution as the necessities of commerce demanded, as the sequel to a series of remarkable accidents or fortuitous circumstances. The Mughal power was rapidly dissolving and a hundred dynasties grew up, flourished, decayed, were extinguished and forgotten. Amidst this confusion, the Maharattas passed annually over the harvest of India with the destructive rapidity of a hurricane. The British traders were just struggling for existence when chance and fate combined to strengthen their position and offer them new opportunities. Two great invaders, one from Persia and the other from Afganisthan, came successively and devastated the country and India remained bleeding and prostrate behind them. The Britishers were then busy with their business and had to develop their political power for self-preservation by a series of unconscious adaptations. That was a critical period of epoch-making transitions. There was a transition from commerce to territory and from territory to sovereignty. India was lifeless and there was lack of initiative and of enterprise in the country at that time. The British mercantile community had the double function of carrying on their trade and also of governing the country. The East India Company's maritime trade then used to be carried on in steel vessels made in England. So, naturally, like ordinary businessmen, they concerned themselves more with commerce than with Government, and perhaps naturally did not care to attend to the local ship-building industry which was then rapidly dying out. The Government was then a two-headed monster and commerce, being the wiser head, prevailed over Government, the ornamental head. This is the verdict of impartial history. It is quite natural, however, for Indians to resent the attitude of the so-called British Government in India at that time towards this great industry. Something of this industry remained long after the advent of the British in India, for in the year 1800, Lord Wellesley, the then Governor-General of India, said that the port of Calcutta contained ships *built in India*, for the conveyance of cargoes, of a total tonnage of ten thousand tons. The situation was, however, allowed to deteriorate for a century and a quarter. At last the Indian Mercantile Marine Committee sat and considered the question of ship-building in India and submitted their report in 1924. In paragraph 15 of their report they said, "If a ship-building yard is projected by an Indian Company, the Governmnet may aid that enterprise by (*a*) advancing a cheap loan to the extent of one-third of the paid-up capital of that Company and assistance in acquiring suitable sites; (*b*) guaranteeing the giving of all Government and Port Trust work to this shipyard at a cost not unduly higher than the cheapest price which can be secured abroad for a similar class of work; and (*c*) legislating that, when such a suitable ship-building yard is completed and

established, all ships seeking for a licence on the coast should also be required to have been built in India." The report further says, "While agreeing with our recommendations, our colleague, the Hon'ble Mr. Lalubhai Samaldas, would prefer the Government pioneering this enterprise and establishing and maintaining a ship-building yard at its own cost." So declared this authoritative Committee only sixteen years ago. The Chairman of that Committee was the Director of the Royal Indian Marine; the Consulting Naval Architect of the Government of the United Kingdom was a member, and great Indian businessmen like the Hon'ble Mr. Lalubhai Samaldas and Mr. Jadunath Roy were also members.

Then, Sir, we come to a very recent time. Representatives of the Scindhia Steam Navigation Company, Ltd., came here and tried to obtain a site for establishing a ship-building yard in Calcutta. They approached various authorities, but no sympathy was shown to them. It is said that they selected a site near Calcutta on the other side of the Hooghly and approached the Port Trust authorities. The Port Trust authorities, however, demanded too high a rent which the Company was unable to pay; and so they had to go away. Now, they have started a ship-building yard at Vizagapatam. I cannot help feeling that this has been a distinct loss to Bengal. Although the Company comes from Western India, still, if that Company had a footing in Calcutta, it would have done an enormous lot of good to the people of Bengal. The industry would have employed thousands and thousands of our people—workmen, educated people and others; and that would have, to a great extent, solved the unemployment problem which is becoming increasingly acute every day. I submit that only a little help in the shape of a little bounty or a grant either from the Government of Bengal or from the Government of India in mitigation of the high rent demanded by the Port Trust would have solved the problem. For this lack of a little encouragement, the Company had to go away from Bengal. It is a distinct loss to Bengal, no less to the Port Trust authorities.

Now, Sir, there are enormous possibilities for the ship-building industry in India at the present time. The war is on, and there has been a considerable loss in tonnage as a result of the activities of the enemy torpedoes and mines and bombs! The shipping industry in England is perhaps unable to keep pace with the growing needs of the trade. As has been remarked by a previous speaker, Canada has started her ship-building business in right earnest; South Africa and Australia are also active. And, free countries like the United States of America and Japan have been accelerating their ship-building in right earnest. After the last war it was found that the British Government had their ships built partly in Japan and elsewhere. During the last war, the United States of America and Japan made enormous progress in the sphere of ship-building. But when that war was over, things were soon

forgotten and India was not given any opportunity of reviving her old ship-building trade. Had the Government of India, after the last war, encouraged the starting of a ship-building industry in India through State aid, either in Bengal or in any other place, much progress could have been noticeable by this time. The mercantile marine has played a great part to play in these days; it is supplying the sinews of war by keeping alive the steady flow of commerce within the Empire and with the non-belligerent countries of the world. In times of war, the merchant ships, when armed, can defend themselves and even sink enemy ships while carrying commerce to different parts of the world. India has thus lost a great opportunity, and, I believe, it is a loss not to India alone but to the Empire as a whole. Although a great opportunity has been lost, we should not lose time any more. In Bengal, there are many suitable centres for establishing a ship-building industry. Chittagong is one, Calcutta is another; and there are various other suitable places. The men in the river districts of Bengal are particularly fitted for this trade. It has been suggested that India is not absolutely immune at present from attacks by the sea, and we cannot brush aside the suggestion as idle fancy. If we can establish our own mercantile marine and build our own merchant ships, this fleet, while carrying trade and commerce to the ends of the earth, will also be able to a large extent to supplement and strengthen the hands of the Royal Indian Navy. India should have been given, and certainly should now be given, opportunities to start her own ship-building industry, and we, the people of Bengal, can legitimately claim that the industry should be started in Bengal. I have, Sir, only one more point to mention. I find that the resolution which has been tabled by Mr. Lalit Chandra Das has partly been objected to on technical or sentimental grounds.

The amendment of Mr. Nur Ahmed would have, as far, I could see, gained more general support. I know that his amendment was tabled too late and was consequently rejected on an objection from an honourable member. I have no grievance on that score, and we do not want to move the amendment. But we would like to place before the House the resolution as it would have been amended by Mr. Nur Ahmed's amendment because that corresponds with the sentiments and wishes of a very large majority of this House. In a statutory enactment we are tied down strictly to actual words of the clauses; but in a resolution like this, expressing general sentiments, we are not much tied down to the actual words. Our votes should be read with the speeches made by us. In the circumstances, I support the resolution qualified by the sentiments expressed in our speeches.

(The honourable member having reached the time-limit resumed his seat.)

Mr. A. F. STARK: Sir, this debate has shown a very natural tendency to blame Government for everything. We are told that Government should have helped this, Government should have helped that. It goes a little further than that. Europeans, such as my honourable friend Mr. Ross, are identified with the former British Government. But Mr. Ross spoke as a representative of European industry. He did not speak with a racial complex. He spoke on the terms of the resolution and he objected quite naturally, as we do object, to a resolution which proposes to give help to Indian companies only. Our view is, Sir, that a ship-building industry is not started by Government. The ship-building industry of England was not started by the Government in England. It was started by private enterprise without any assistance whatsoever. The ship-building industry—I think I am correct in saying—in Australia was not started with the help of the Australian Government. My point is this, Sir, that the industry in this country must be built up by private enterprise, and as soon as Indians have shown that enterprise, their industries will be developed. But if Indians depend on help from Government before they act, then they are not going to get very far. It has been suggested and is suggested time and time again that you do not blame the Europeans who live in this country for this state of affairs, but you blame the former so-called British Government for the fact that Indians are unprepared and are in a weak position. And this argument was extended to industries, in spite of the fact that in India we have one of the highest tariffs in the whole world and that the troubles that have been experienced in the past 20 years in Lancashire have been largely due to high Indian tariffs. I do not think it is true for one moment to say that no help has been given to Indian industries by Government.

Then, secondly, it is suggested that India is unprepared, India is unarmed, etc. Perhaps members would cast their minds back over the years and consider the opposition that has been put up in the Central Assembly to any increase in defence expenditure and ask themselves if the Government of India has been entirely to blame. We do not want to defend the Government of India, but is it entirely to be blamed? I appreciate a great deal of what my friend Mr. Abul Quasem has said and I think his attitude towards the resolution itself was extremely sensible. As Mr. Ross has pointed out, there are already three ship-building industries in Calcutta. If orders were there, if these Companies felt that they could build sea-going ships and make profit on them, it would certainly have been undertaken.

Then, Sir, just before I close I want to refer to one rather irresponsible remark made by Mr. Birendra Kishore Roy Chowdhury to which we are not accustomed. It was to the effect that the Calcutta Port Commissioners closed their doors against Indians. Well, Sir, let

me tell him that there are at least two Indian Port Commissioners and there is an agreement between the Calcutta University and the Port Commissioners for supplying the subordinate staff of the Port Commissioners.

Mr. KAMINI KUMAR DUTTA: Sir, at first I had no mind to speak on this resolution, but it seems to me that on one point it is my duty to make the standpoint of my party quite clear so far as this resolution is concerned. I feel it is no use bewailing over the old history of the destruction of the Indian ship-building industry. We have been indulging, it appears, in our speeches in easy platitudes, forgetting the real implication of the resolution. In order to judge of the responsibility of the Government with respect to this particular industry, we must look at this resolution from a realistic point of view. It has been remarked not only by my friends of the European Party but also by my friends of the Coalition Party that there is no constructive suggestion in the resolution and so the Government cannot be blamed for not extending its hand of help. But if you really consider the problem in its true perspective and if you put the question to yourself as to why this industry was destroyed, the only reply would be that this industry was destroyed in pursuance of the policy of Imperialism of Great Britain. It was the inevitable outcome of their Imperialistic policy. Sir, the shipping industry is connected with trade and commerce. It is, so to say, the life-blood of a progressive nation and any nation pursuing the policy of Imperialism cannot allow another nation to really have a flourishing shipping industry. The destruction of the shipping industry in India was thus nothing but the inevitable outcome of the policy of British Imperialism. No shipping industry could be allowed by a Government following the policy of Imperialism to grow in a dependent colony or in a dependent country. Their own interest would dictate that they must have the full control over its shipping industry which would mean the control of its trade and commerce. If anyone would read the early history of the East India Company, one would find that there are admissions, there are facts narrated by the members of that Company itself that for the purpose of exporting commodities from India at that time,—India at that time used to export commodities,—there was a discrimination made by the order of the Government that the particular ships of a particular nation alone would carry these commodities to Great Britain and to other countries of Europe. So, really the whole thing is connected with the policy of the Imperialistic administration of the dependency of India. So long as the policy of the administration remains a policy of exploitation, a policy of Imperialism, the shipping industry cannot be allowed to grow. So, when it is said that private capital is very shy, that it is not coming forward to invest in the shipping industry, the reply simply would be—change the tone of the

administration and inspire confidence in the mind of the people and you will find in no time that Indian capitalists would be quite eager to come forward to invest their money in this industry. The incentive ought to come from the side of the Government. Any Government which is imbued with a sense of real responsibility and whose aim is real amelioration of the condition of the people committed to its care and real uplift of the people and the progress of the nation, should take necessary steps to inspire confidence and create the desire in the nation to have an industry like this. Without a shipping industry, a nation cannot prosper. It is said that the sea is the greatest ally of Great Britain. Why so? Because she possesses the strongest navy in the world. She has indeed the strongest merchant ships also. If she had been weak in the Navy, the sea instead of being an ally would have been an enemy. India also could have claimed the sea to be her greatest ally if she could by now possess a strong navy, a strong fleet of merchant ships. Sir, I would not go further. I would only say, let us not indulge in platitudes; let us look at the question straight in the face. The policy of the administration must be changed, the policy of exploitation, the policy of Imperialism must be abandoned, and the shipping industry, the industry, which is the life-blood of the nation, would then proposer.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. President, Sir, I had no mind to take part in this debate, as I was under the impression that the resolution will be welcomed by all sections and parties of the House irrespective of caste, creed or nationality. But, Sir, the attitude taken up by the European Group is rather very surprising. I believe, Sir, that the antagonistic attitude which they have displayed is due to a very great extent to their looking at the question from a wrong angle of vision and also to a certain extent perhaps due to the very uncharitable strictures passed on their ancestors by some of the honourable members (Mr. HUMAYUN KABIR: Uncharitable but true.) But at the same time I think as my honourable friend Mr. Kamini Kumar Duttta has said, there is no use blaming anybody for the things that have passed, but we should now start thinking as to what should be done for reviving this industry in Bengal and in India. Sir, if the Europeans look at the question from the point of view which I have in mind, they will see that it is not at all a question of racial discrimination. Sir, they certainly know that the present political awakening in India is to a very large extent due to the liberal education which the British people have conferred on India. It is the British who encouraged us to go to foreign lands and it is the British people who encouraged us to read Burke and Macaulay and to be inspired with ideas of freedom and independence; and now in order to be free and independent, we want that all our resources must be sufficiently developed and we should grow to

the full stature of manhood and nationhood. Unless we grow to the full stature of manhood, we cannot be really free and independent. Sir, after having given the benefit of liberal education and having aroused in us all kinds of political aspirations, they cannot now go back and stifle our aspirations instead of honestly trying to fulfil them. It will be impolitic—grossly impolitic—having roused political aspirations to try to keep us under perpetual bondage by not allowing us to grow to the full stature of a nation by developing our resources.

Sir, in the face of repeated pronouncements of the British Parliament that Dominion Status is the ultimate goal of India and that the mission of the Britishers in India is to help in the progressive realisation of that goal, is it desirable or at all wise to oppose a resolution which seeks special encouragement from Government for helping the Indians to develop its shipping industry like other independent countries, so that when Dominion Status is conferred on her, she may not have to depend on others for her coastal defence? If the pronouncements made by highest of British authorities are sincere, should not the British in India help and encourage us to grow to the full stature of nationhood? How can then this resolution be branded as directed against any class or as making any invidious distinction between a class and a class? We are all British subjects, Indian or European. All we want is that the European subjects who have already grown up to the full stature of manhood and are in full vigour of health should help us too, their fellow-brothers, to grow up to the same stature. But instead of that if we are left crippled and weakened, how can we take our position as an equal partner in the Commonwealth of the British Empire?

Sir, I appeal to the members of the European Group to consider the resolution from the point of view which I have explained and withdraw their opposition, as otherwise they will stand self-condemned for going against the declared policy of their own Parliament and their own Sovereign. Instead of opposing a resolution like the one before us, they should welcome it and seriously set about wiping out the reproach that India even after nearly 200 years of British rule is so helpless that she cannot stand on her own legs. I would request our friends of the European Group not to be ruffled by the strictures passed by some of the members but take final decision after considering the implication involved in it. Their opposition to this resolution will indicate that they are against Indian aspiration for developing their resources and that the declaration of policy of the British authorities are all a sham and farce.

Then, Sir, a word in reply to Mr. Quasem and Mr. Stark. They said that preliminary initiative should, in the first instance, come from private sources and then it would be for the Government to come and help them. I do not agree with them at all. For various reasons we

have lost all initiative and spirit of enterprise. The spirit of enterprise and initiative is dead and it is the sacred duty of the Government to instil that initiative and that spirit of enterprise in us by all possible means. The Indians are at present lacking in that spirit and it is their duty to infuse that spirit in us. It is necessary for the Government to take the initiative in the interests of the people under their charge. If Bengal had been an independent country, would Government have said that they could do nothing unless the people took the initiative in starting an industry and would they have asked the people to take initiative in the matter of starting the shipping industry? Now that we are an autonomous Government, we must look at it from that point of view and if the people are lacking in initiative and lacking in enterprise, it is the duty of the Government to take the initiative and help us to grow to the full stature of manhood and take proper place in the Commonwealth of the British Empire.

With these words, I support the resolution.

Mr. K. C. ROY CHOWDHURY: Mr. President, Sir, the way in which we have been discussing this resolution reminds me of a Bengali proverb which rendered into English would mean the singing of a song of Siva while husking the paddy. Here in our discussion on the resolution we have similarly gone astray from the subject-matter of the debate. Sir, we have listened with great admiration to the patriotic speech of Mr. Kamini Kumar Dutta. He says that Imperialism is at the bottom of all evils, but he forgets that the Imperialism of Great Britain to-day is not what that Imperialism was twenty years ago, when the Treaty of Versailles—called by many people as "the Cursed Treaty"—was signed. It is "Empirism" to-day and not "Imperialism". Everybody must admit that the British Imperialism of to-day is quite different from the Imperialism to be found in other parts of the world. Think of the kind of Imperialism prevalent in Belgian Congo, the Dutch East Indies and French Indo-China. What do we find in the Dutch East Indies? 80 per cent. of the people there are Muslims and they have been kept down by their Dutch rulers without being allowed any voice in the administration. What is the kind of Imperialism. I ask, that obtains in French Indo-China where 90 per cent. of them are kept down by their rulers? It is not the kind of Imperialism found in Belgian Congo, the Dutch East Indies and the French Indo-China that is to be found in any part of the British Indian Empire. After the Treaty of Versailles, British Imperialism has undergone re-orientation and the Empire is now called the British Commonwealth of Nations. Sir, I am not a propagandist of the Commonwealth but I ask what does that term imply? It is practically co-partnership. We have blamed the British Imperialism for their failure in the past to establish a shipbuilding industry in India. But look at Australia which is a part of

the British Empire. You know, Sir, the ship-building industry of Australia is still in an infant stage. South Africa is a part of the British Empire, but there also the ship-building industry has not yet been started. Take also the case of Canada where the ship-building industry has not yet passed its stage of infancy. Similar is the case with New Zealand. Therefore, there is no substance in the argument of Mr. Dutta that in order to maintain Imperialism in India, India's ship-building industry has been destroyed. I would rather say that we lost our ship-building industry as a result of foreign competition. If a good thing can be had cheap in England, there is no harm in placing our orders there. Australia buys her ships from abroad; even South Africa was buying ships in Germany after the last war. Many of our Indian concerns like the Scindia Steamship Co. and eminent persons like Mr. Jadunath Roy, who were negotiating for the purchase of steamers, found that good ships of British make could be had cheaply. It is not Imperialism, therefore, which has always done us harm. I think the Congress is not the only Socialist organisation in the world that it should cut off all connections with Imperialism. Even Communist Russia is trying to expand herself as an Empire and to maintain cordial relations with other countries by entering into trade agreements with them, because it is a great bulwork against the Nazi tornado which is shattering Europe to pieces. That is the reason why India minus Imperialism or British Dominionism cannot stand to-day; on the contrary, she must take the help of the Britishers, particularly in the field of commerce and industry, and militarism for her forward march towards progress and development.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, it is difficult in the heat of political controversy to deal with this resolution in its naked aspect. On behalf of Government, Sir, I can say that we have every sympathy with this resolution and with the spirit underlying it, although I must confess that I fail to understand its wording. I shall deal with the verbal criticisms later. Sir, I would have suported any resolution passed in this House for forwarding it to the Government of India which tends to promote our industries and our commerce or which aims at making this country, and this province in particular, economically self-sufficient. If there had been resolutions to the effect that we should have more iron and steel industries, more tool manufacturing industries, more munitions factories or factories for making tanks, guns or aeroplanes, I would have supported them all. Mr. Dutta has spoken somewhat bravely that he wants a big Indian Navy. If the war continues in its onward march of foolishness, then every country must have a big army, a big navy and a big air force; but every country must pay for it. I am afraid we talk too much, somewhat glibly, about our independence and of all the paraphernalia of an army to maintain that independence without realising that all these require

payment: they require sacrifices. On the one hand, we do not want to burden ourselves with further taxation; we do not want to pay money for these things; but, on the other, we desire to have a strong navy, a big ship-building industry and a strong air force. I think that in order to have all these things a certain amount of reorientation of our ideas is necessary. That will come through force of circumstances and not by our tabling motions.

Sir, I am sorry I was not here when Mr. Ross spoke, and hence I cannot deal adequately with the attitude of the Scottish group in this House, but from the remarks of Mr. Stark it did appear to me that that group was not opposed to the resolution as such or to the spirit underlying the resolution, but opposed the last portion of it which stated that Government subsidy or assistance should be given to associations of competent Indians only. It appears, I believe, again from Mr. Stark's exposition of what Mr. Ross had said, that there are three ship-building industries at present in Calcutta who would be prepared, according to him—I cannot endorse it—to take orders for the construction of ocean-going steamers if such orders were placed within them, and that as such there was no reason why, if you are seeking for Government encouragement or subsidy, it should be applicable to a class of Indians only, and should not be applicable to Scottish Indians, should they be willing to take up the ship-building industry——

Mr. LALIT CHANDRA DAS: What does the Hon'ble Minister mean by the expression "Scottish Indian"?

The Hon'ble Mr. H. S. SUHRAWARDY: I mean people in India who are Scottish by birth.

Sir, it would seem, therefore, that their objection was not so much to the establishment of a ship-building industry as to the suggestion that Government encouragement was to be limited only to Indians.

Now, Sir, it appears that the House is in possession of the facts regarding the recent attempts that have been made to establish a ship-building industry in Bengal, and particularly in Calcutta. The Hon'ble the Commerce Member of the Government of India came down here with a view to find out whether such an industry could not be established in Calcutta. Calcutta has got some natural advantages which no other port of India possesses. It is the first port in India: first in commerce and industry; and there is plenty of labour available here including skilled labour; you can get steel and other commodities cheaper in Calcutta than, say, in Vizagapatam; it is also less immune to attacks from the sea than other sea-ports are. All these are facts in favour of Calcutta, and obviously, therefore, those who intended to establish a ship-building industry in India chose Calcutta first. Unfortunately, some difficulties arose owing to which Calcutta was not selected.

Unfortunately again, I may say that during the progress of those negotiations the Government of Bengal was not consulted and I was not able to offer my services in settling those disputes. It was only after I learnt that the Scindia Steam Navigation Company had decided on Vizagapatam that I could move in the matter to find that it was too late. On behalf of the Government of Bengal, I can say we would have gone very far indeed to have kept that industry in Calcutta. The facts are very much as stated by an honourable member that the Port Trust Commissioners could not see their way to grant a lease of a portion of their land at a reduced rate. It was purely an economic consideration for them. They had let out certain portions of their land at a certain rate. There exists an agreement between them and their present lessees that if they let out other portions of their land they must let them out at the same rate; otherwise they will have to reduce the rent of all the lands which they have let out previously. Under those circumstances, the Calcutta Port Trust insisted that they should get the same rent from Messrs. Scindia Steam Navigation Company, and this the company were not prepared to pay. Another site, an alternative site was available to the company, but their technical experts did not think the other site suitable and they thought Vizagapatam was cheaper and better for them. Unfortunately we have lost the present opportunity, but this does not prevent any other industrial combination from arising. If they wish to establish a ship-building industry in Calcutta and if there is any such concern that takes the initiative, I should be most glad to assist to the best of our resources. We think that it will be to the benefit of a ship-building industry to establish one in Calcutta. I think we could establish a ship-building industry here cheaper than in any other part of India and I do hope that magnates whether Scottish or Indians will be found available who will establish a ship-building industry here and strengthen our resources.

Sir, I am unable to deal with the historical background of the ship-building industry in Bengal. I know that several thousands of years ago there was a ship-building industry flourishing in India. I believe some thousands of years ago there were also aeroplanes and persons used to fly from one part of the country to the other either by means of aeroplanes or gliders—it is not quite known what was the motive power. Some say it was boiling mercury or something to that effect. But that does not mean because we had aeroplanes in those days, India is the best place for the manufacture of aeroplanes to-day. It may become the best place and I do hope it will become so. I do hope we shall have aeroplane factories which will be one of the wonders of the world. It is necessary that if India wishes to take her place in the comity of nations we should have aeroplane factories established in all parts of the country, and not merely far away in Mysore. But there is a transitional period, and if people find that they can get their ships cheaper in the ship-building yards in England this is no justification

for asserting that this is equivalent to the deliberate destruction of the ship-building industry in India. All parts of the world, I believe even the Argentine purchase ships from England. Without further recrimination, let us also try to do our best in that direction and see whether we cannot also start a ship-building industry here. The Scindia Steam Navigation Company is in a better position than any one else because it has a fleet of its own. It needs to repair that fleet from time to time. It proposes to extend that fleet by addition of ships. I do not know whether any other concern is so well situated or whether there are industrialists who are prepared to come forward and establish a ship-building industry here. But I think that mere Government and the Port Trust by themselves will not be able to maintain a ship-building industry in Calcutta. We need more things than that and in order that ship-building industry may succeed it should be allied to a shipping company that will be prepared to build its own ships. I do not know whether the time will ever come when we shall be in a position to have our own navy. Indians are very good sailors, particularly the Bengalees, and there is no reason why we cannot have a navy that may be equal to the navies of other parts of the world.

If I may now turn to the resolution itself, I propose, Sir, to forward the debate on the resolution if accepted by this House to the Government of India for its consideration. I would like to understand what the honourable member means by his resolution. Does he want that the Government of India should establish a ship-building industry of its own, that it should have its own ship-building yards paid with Government money under Government supervision? I am merely seeking clarification—a word which is now very much in vogue—for the benefit of the Government of India, so that when the Government of India will come to read this debate, it might know what it is being asked to do—whether it is being asked to establish its own ship-building yards or whether it is being asked to assist industrialists who might wish to establish this industry? (Mr. LALIT CHANDRA DAS: Both.) So much the better. Let us have as many as possible, and I do hope that Mr. Lalit Chandra Das and all of us together will assist in making those ship-building yards a success, and increase, if possible, a demand for those ships.

As I have said before, Sir, I have every sympathy with this resolution. I think that a ship-building industry in Bengal will be successful and if the Government of India would come forward to establish a ship-building industry, well, we shall welcome it with great pleasure. If industrialists come forward to establish shipyards here, then the Government of Bengal, although it may be the province of the Government of India, will do everything possible to see that they are helped in every possible way.

Mr. J. B. ROSS: On a point of information, Sir. Does the Hon'ble Minister intend to indicate to the House whether Government support this resolution in so far as it seeks to confine this ship-building industry to Indians only?

The Hon'ble Mr. H. S. SUHRAWARDY: I have suggested that if there are ship-building industries established here and if they want the assistance of the Government of Bengal or the views of the Government of Bengal in case they want the assistance of the Government of India, I do not propose that assistance should be confined only to Indians.

Mr. R. W. N. FERGUSON: Sir, I just want to say a few words before this debate closes to clarify the position as far as my party is concerned. The Hon'ble Minister was quite correct when he said that our main objection,—in fact it is our only objection,—is to the three words "of competent Indians" appearing in the resolution, and if the honourable mover will agree to the deletion of these words, the resolution will have our support.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, the honourable Mr. Ross did me an injustice in the very beginning of his speech. He said that I am opposed to everything European. Nothing of the sort. I know, they are a very lovable people. Their education, their culture, their discipline, their business habits, all extort our admiration. But at the same time, I must say, that they prove perfectly different beings when they speak as members of a particular association—say European Association, Trades Association or as members of the Bengal Chamber of Commerce. There, when they speak, we find self-interest personified speaking quite unmindful of the interests of others and unable to see things from other's point of view. This explains why the honourable Mr. Ross was so vehement the other day in opposing my resolution. Sir, the honourable Mr. Ross could not deny that India had a long and proud tradition of ship-building. He admitted that with the advent of steel and iron, the position was completely changed. I ask, why instead of adapting the Indian ship-building industry to the new technique, it was allowed to decay and eventually even almost to perish? Sir, the fact remains that the British merchant shipping has dominated and controlled the coastal and overseas trade of the country and the British Government in India has, therefore, not considered it necessary to have a ship-building industry in India, inasmuch as all its ships are constructed in and imported from the United Kingdom with large profits to their own nationals. It was, however, the duty of the Government to see that the industry did not pass from the hands of the people although the honourable Mr. Ross seems to think otherwise. Sir, the honourable Mr. Ross referred to the four British concerns engaged in the highly profitable task of exploiting the resources of this

country and preparing ships on the banks of the Hooghly. These do not, however, touch a fringe of the issue I have raised in my resolution. Those concerns mentioned by the honourable Mr. Ross and similar other concerns in Bombay and Rangoon are but a few ship-repairing concerns, where I admit, some motor boats, some inland steamers and some launches of certain specifications required for their own business purpose are constructed. Naturally, those concerns had to rely on the cheap local labour and Indian Babus to keep accounts for them; and when the honourable Mr. Ross boasts of the employment of Indians, we know they get a very small percentage of the very unwieldy dividend that they themselves enjoy. There is, however, no ship-building industry as contemplated in my resolution.

Sir, in answer to Mr. Ross, it is necessary for me to place very briefly some important facts underlying the demand for such an industry. I would mention here that the dependence on foreign shipping agencies resulted in our paying roughly a price of about 25 crores of rupees a year. We have trade relations with every part of the globe. The total value of this trade is about 344·2 crores of rupees, that of import being Rs. 161·8 and export Rs. 182·3 crores and the entire trade lies at the mercy of foreign shippers. India has a total coastal and overseas trade of nearly £400 millions per year. About 30 million tons of cargo and three million passengers are carried every year in this trade. India has also a long coast line of nearly 4,000 miles and important major and minor ports which need to be defended in times of emergency. I may remind the honourable Mr. Ross that the coastal trade of India, Burma and Ceylon alone requires between 100 to 150 steamers at a time.

Sir, I will give certain other figures. The outgoing and relieving British soldiers of the Indian Army number more than 25,000 every year. Their transport cost annually about Rs. 55½ lakhs. All these voyage in foreign ships. The total subsidy for carrying mails of Rs. 7·8 lakhs goes to a foreign company. I can multiply instances. The extent of our dependence is evident from the fact that in oceanic trade of which total tonnage is 11,800,000 tons, our indigenous shipping represents only 95,000 tons, *i.e.*, about 8 per cent., while of the aggregate tonnage of 29·61 million tons in the inter-portal trade, only 3·24 million tons is our own and over 89 per cent. foreign. Can anybody wonder why Mr. Ross so vehemently opposes my resolution? It is not necessary for me to point out why we are very anxious to restore the shipping industry of India and particularly of Bengal. A point has been made by Mr. Ross that in my resolution there is something racial inasmuch as I ask for bounty and subsidy to Indian concerns for ship-building industry in Bengal. To this, my reply is that when the King-Emperor said "buy British", was he racial? When we say, "buy Indian", are we racial? Whatever we say, we say for the best interests of India.

Then again, the Government of Japan established ship-building industry of their own. And when they taught the Japanese how to build ships, were the Japanese racial? Therefore, the question of racial complex does not arise. If Australia and South Africa build their own ship-yards and shipping ports, you cannot say they are racial. Rather, I would say that it is virtue sometimes to be racial in matter of supreme national importance. I say the Government of India should stand for the Indians and by the Indians. I say, Mr. Ross, when we get our power, when we shall be restored to our own, you may rest assured that it will be the first duty of the National Government to nationalise some of the key industries of which ship-building is one.

Sir, in the first part of my resolution I have said—that the Government of Bengal should move the Government of India to establish as early as possible a ship-building industry in Bengal. There was a brilliant record of ship-building in Bengal which we have now lost. It is the duty of the Government to raise us up by importing even foreign experts, if necessary, in order to teach the technique of ship-building. It is also the duty of Government to prepare the country to defend itself. All this points to the absolute necessity for the Government to establish ship-building industry here. In the resolution, there is a further clause, namely, that companies formed by Indians for this purpose should be helped. How they are to be helped is stated in my resolution. I have said that they should be encouraged by the grant of construction bounties and by advancing cheap loans and assisting the acquisition of suitable sites and by guaranteeing all Government and Port Trust works in connection with shipping.

Sir, it has been said why I have mentioned the words "Indians formed into companies"? My answer is—because it is India, because we want that so far as Indians are concerned, they should get the first benefit of the shipping industry. In the national Government which will come, I can tell Mr. Ross and his party, it will be the duty of the Government to see that all the coastal trade is entirely reserved for the Indians and none but Indians. That is done by national Governments all over the world and that is our view.

Sir, my resolution is divided into two parts. Firstly, the duty of the Government is to establish a ship-building industry in Bengal, in Calcutta or in its neighbourhood. The reasons were very lucidly explained by the Hon'ble Minister for Commerce and I need not go over it again. The other part is that Government should help Indian companies by the grant of construction bounties and advancing cheap loans and by assisting the acquisition of suitable sites whenever they come forward to start such an industry.

One word, Sir, in regard to what Mr. Abul Quasem has said about my resolution. He remarked why should Bengal have a ship-building industry of her own, and not Madras or Vizagapatam? The resolution

cannot contain arguments which will go to show the claims of Bengal. But so far as the claims of Bengal are concerned, I think, that point has been very well replied to by Mr. Birendra Kishore Roy Chowdhury, Khan Bahadur Naziruddin Ahmad and the Hon'ble Minister for Commerce and I need not add a single word to that. The Government of India need not establish one single ship-building centre in India. I am really urging that the Government of India should establish more than one such centre in India—in Calcutta, in Madras, as well as in Bombay. The occasion has now come to do so, because so many ships have been destroyed in several parts of the globe; so much tonnage have been lost and they must be replaced—now is the golden opportunity to start it.

Sir, with these words, I once more commend my resolution to the acceptance of the House.

Mr. J. B. ROSS: On a point of information, Sir. Before the resolution is put to vote, I would like to ask the mover of the resolution to make it clear whether he is prepared to delete the words "competent Indians" and take away the racial aspect of the resolution?

Mr. LALIT CHANDRA DAS: No, Sir, I stick to my wording.

Mr. PRESIDENT: The question before the House is the resolution of Mr. Lalit Chandra Das: that this Council is of opinion that the Government of Bengal should move the Government of India to establish, as early as possible, a ship-building industry in Bengal and also to encourage it by the grant of construction bounties and by advancing cheap loans and assisting the acquisition of suitable sites and by guaranteeing all Government and Port Trust works in connection with shipping to associations of competent Indians formed into companies for the building of ships in Bengal.

The motion was put and the Hon'ble President said "Ayes" have it.

Mr. RANAJIT PAL CHOUDHURY: "Noes" have it.

The Hon'ble Mr. H. S. SUHRAWARDY: On a point of order, Sir. Can an honourable member call a division and then vote against his voice?

Mr. PRESIDENT: No, at the time of voting he cannot go against his voice which is really voting in a different form.

The question before the House is the resolution of Mr. Lalit Chandra Das: that this Council is of opinion that the Government of Bengal should move the Government of India to establish as early as possible a ship-building industry in Bengal and also to encourage it by the grant

of construction bounties and by advancing cheap loans and assisting the acquisition of suitable sites and by guaranteeing all Government and Port Trust works in connection with shipping to associations of competent Indians formed into companies for the building of ships in Bengal.

The motion was agreed to, Mr. Pal Chowdhury not pressing his demand for a division.

Mr. NUR AHMED: Sir, I beg to move that this Council is of opinion that the Government of Bengal should make a representation to the Government of India urging on them the necessity of giving at least similar assistance, facilities and concessions for the manufacture of salt on a commercial and industrial basis in Bengal as they (Government of India) have given and are giving to Madras.

Mr. President, Sir, in moving this resolution, I do not think I should take much time of this House. The resolution is self-explanatory and, I think, there is no member in this House who will disagree with me in this respect. Salt is a thing which is indispensably necessary for every human being. It is an every day necessity. Bengal admittedly has got an extensive sea-shore. From time immemorial, villages adjoining the sea-shore have been manufacturing salt in a crude and primitive method. It also appears from Government records that the East India Company manufactured salt in Bengal. But with the importation of foreign salt from Liverpool and Aden, that industry has died out. In accordance with a resolution carried by the Central Legislative Assembly on 12th March, 1931, Mr. C. H. Pitt was appointed to enquire into the possibility of manufacturing salt in Bengal. Unfortunately, his report was very pessimistic. He emphatically declared that Bengal was unsuitable for the manufacture of salt on a commercial scale. As a result of that, the Bengalees who wanted to establish salt industries in Bengal lost all their enthusiasm. But now we are fortunate that our popular Government have again taken up the matter, and from the recent investigations made by the expert officer of the Government of Bengal it appears that Bengal has got vast possibilities and potentialities for a large scale manufacture of salt provided the industry is assisted and developed on proper lines. It appears that Bengal's yearly consumption of salt comes to about 80 lakhs of maunds at the modest computation. There is no reason why at least 50 per cent. of the provincial consumption of this huge quarterly of 80 lakhs of maunds should not be produced in Bengal.

Sir, the Salt Industry Committee of the Legislative Assembly on 12th March, 1931, discussed the report on salt industry prepared by the Tariff Board and the Salt Survey Committee. In paragraph 11 of their report, they recommended the investigation of the possibility of

development of other sources of supply in India, as for example in Bengal. Mr. Pitt was appointed for this purpose. As I stated, his report was not encouraging from Bengal's point of view. So, the people of Bengal were not very enthusiastic about the devolpment of this industry. It is only recently, as I stated, that the possibility of manufacture of salt has been found out by two experts of the Bengal Government and their report has created a strong enthusiasm into the mind of the people of Bengal. There is a strong feeling in the country that if special efforts are made for the development of salt industry in this province and sufficient assistance and encouragement is given by the State, there is no reason why Bengal should not be able to produce at least its quota of salt. Bengal has an extensive sea-coast. Salt was an ancient industry in this province. It is an historical fact that salt was made formerly in considerable quantities on the Bengal coast by the primitive straw-filter process. It has been stated in the "Selection from the Records of Bengal Government" (No. XIII of 1851) that salt was produced in the years 1850 to 1852 in quantities from 7 to 9 lakhs of maunds in Tamluk agency and the price paid to the manufacturers was annas 6 to 7 per maund. In the statistical account of the Government of Bengal, Volume XVIII, page 249, it is stated that the manufacture of salt in the saline tract of Balasore was carried on to a considerable extent. About 7 lakhs of maunds of salt used to be produced and the total cost worked out to be 12 annas per maund. The "Friend of India," dated the 29th April, 1847, shows that the rate per one hundred maunds of salt manufactured in Bengal varied from Rs. 62 to 97. The figure of estimated consumptions of the coast districts of Bengal, namely, Chittagong, Noakhali, Tippera, Bakarganj, Faridpur, Khulna, 24-Parganas, Midnapore and Balasore, shows that it comes up to 25 lakhs of maunds. In these areas, especially in Chittagong, Noakhali, the people living on the sea-shore still manufacture salt and so manufacture of salt in these areas should be encouraged by all means.

There is another aspect of the question. It is more important. There is a strong opinion in the province that all attempts should be made to manufacture salt as a cottage industry. Mr. President, from my resolution it will appear that I have included both aspects of the question, that is, the manufacture of salt on commercial scale as well as on cottage industry basis. Salt is at present made in the coastal villages as cottage industry by the use only of two "*chatis*" and the household cooking stove. The process is very simple. For the manufacture of salt by the cottage industry method on a commercial scale, it will be necessary to establish central storehouse at some central depôt to which all salt produced by the villagers in their homes but not required for family consumption can be brought for transport to other areas. There should be no difficulty in establishing such a

depôt or storehouse. For some years past, the Government of India by their memorandum, dated the 10th March, 1931, as a result of the Gandhi-Irwin Pact, permitted manufacture of salt for purely local consumption by villagers in areas immediately adjoining their own village. It is, of course, true that salt thus manufactured by villagers is sold sometimes in the local market. The Excise people prosecute those persons who sell salt as will appear from the Excise Investigation Report. In this way, salt production is still going on and speaking from my personal experience, I can assure this House that during my election campaign when I went to Cox's Bazar and Panshkhali, I visited the markets and saw the locally-manufactured salt in those markets. There were boats filled up with salt, and I think the quantity was large. What now stands in the way of the development of this industry? There is no systematic method in their production and there is no market demand for this. These people are not encouraged to manufacture salt on a large scale because they do not get their proper market. My proposal is that co-operative societies should be started and warehouses should be established to which all the surplus salt manufactured by the villagers should be brought. In this connection, there is another thing to be considered and that is that salt is a commodity liable to duty and there may be objection as to how to supervise the manufacture of salt. A large staff of preventive officers will be required and it will be very costly. But it can be avoided very easily if warehouses were established and after salt was brought in the warehouses, depôt duties were levied. The Government of Madras is encouraging this cottage industry by following this method; there may be other methods by which this salt industry may be encouraged. This is a very important thing. It is a known fact that the only means of livelihood of the cultivators living on the sea-shore is cultivation of land. After cultivation of land they have got no other industry to fall back upon during the respite they get after the cultivation season is over. The paddy crops are harvested about December, so that during the months between January and June, which are most suitable months for manufacture of salt, the villagers of coastal areas can earn about 3 to 4 annas daily if they work as labourers in the manufacture of salt. I think that will solve one of the problems of unemployment and give some additional money to these poor villagers if this industry is encouraged.

The Gandhi-Irwin Pact only allows persons of villages living on the sea-shore to manufacture salt for their own use. My resolution seeks a concession that the Government of India should be asked to allow the manufacture of local salt to be sold in local markets.

There is another aspect of the question, and that is the manufacture of salt on a commercial basis. The manufacture of salt is at present at a very crude stage. A company was started, but it could not grow

successfully for want of expert opinion and other facilities. I think that this sort of indigenous companies should be given all facilities. I know that the department of salt is a central subject and the Bengal Government has got nothing to do with it. My resolution says that the Government of India should be asked to give facilities and concession for manufacture of salt.

Sir, as the time is short, I do not like to take any more time of the House. With these few words, I commend my resolution for the acceptance of the House.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that the Government of Bengal should make a representation to the Government of India urging on them the necessity of giving at least similar assistance, facilities and concessions for the manufacture of salt on a commercial and industrial basis in Bengal as they (Government of India) have given and are giving to Madras.

The House stands adjourned till 2-15 p.m. on Monday next.

Adjournment.

The Council was then adjourned till 2-15 p.m. on Monday, the 9th September, 1940.

Members absent.

The following members were absent from the meeting held on the 6th September, 1940:—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Bankim Chandra Dutt.
(4) Mr. Narendra Chandra Datta.
(5) Khan Bahadur Alhadj Khwaja Muhammad Esmail.
(6) Mr. Mahomed Hossain.
(7) Alhadj Khan Bahadur Shaikh Muhammad Jan.
(8) Maulana Muhammad Akram Khan.
(9) Mr. W. B. G. Laidlaw.
(10) Sir T. Lamb.
(11) Mr. Naresh Nath Mookerjee.
(12) Dr. Radha Kumud Mookerjee.
(13) Khan Bahadur Mukhlesur Rahaman.
(14) Mr. W. F. Scott-Kerr.

B. G. Press—1940-41—6279A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 9th September, 1940, at 2-15 p.m. being the twenty-sixth day of the Second Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Recommendations of the Moslem Advisory Committee.

*89. **Mr. NUR AHMED:** (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state why no resolution embodying the decision of the Government on the recommendations of the Moslem Education Advisory Committee's Report, published in 1934, has been issued, and what are the reasons for this extraordinary delay?

(b) When will the final decisions of the Government on each and every recommendation of that Committee's report be published by the Government?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): The attention of the member is invited to the reply given to clause (f) of question No. 73, put by him on the floor of this House on the 19th August, 1940.

Lady Brabourne College.

*90. **Mr. LALIT CHANDRA DAS:** (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state since when the Lady Brabourne College has been in actual working order?

(b) How many lady students are there in each class of that college and what is the total accommodation capacity of each class room in it?

(c) Of the lady students of the college, how many are Moslems and how many belonged to other communities or races?

(d) What is the total strength of students in the Bethune College and of them, how many are Moslems?

(e) Who are in the teaching staff of the Lady Brabourne College and what are their qualifications and what are their pays? And what is the total monthly expenditure for this college?

(*f*) What was the total expenditure incurred for the constructional works of the college including the value of the land?

(*g*) Does the curriculum of studies in the Lady Brabourne College differ in any material particulars from those in the Bethune College? If so, in what respects?

(*h*) Do Government propose to put a stop to sectarian or communal education as being detrimental to the cause of education and to the growth of nationalism in the country?

(*i*) What steps do the Government propose to take to make the people know and believe that the Lady Brabourne College is not a communal institution but open to all and sundry without the least preference being given to girls of any particular community for getting admission to it?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) Since July, 1939.

(*b*) I.A.—1st year 40 and 2nd year 35.

There are 8 classrooms having accommodation for 62, 40, 32, 26, 24, 22, 16, and 12 students, respectively.

(*c*) Moslems 68, Christians 5 and Hindus 2.

(*d*) Total 367, Moslems 33.

(*e*) A statement furnishing the particulars is laid on the table.

(*f*) Rs.7,92,540 (up to the end of June, 1940).

(*g*) and (*h*) No.

(*i*) The college is mainly meant for Moslems but non-Moslems are taken in when seats are available.

Statement referred to in the reply to clause (e) of question No. 90.

	Name of teaching staff.	Qualifications.	Pay.
			Rs.
1.	Miss F. E. Grose, Principal and Professor of English.	M.A. (Cantab.) ..	750
2.	Miss S. Bose, Professor of English ..	M.A., B.T. ..	425
3.	Miss J. McFadyen, Professor of English.	B.A. Teachers' Training Diploma (Cambridge University).	240
4.	Mrs. B. Ghose, Professor of History	M.A. ..	240
5.	Mrs. S. Mitter, Professor of Mathematics.	M.A. ..	240

	Name of teaching staff.	Qualifications.	Pay.
			Rs.
6.	Mrs. S. N. Mahmud, Professor of Bengali.	B.A. ..	180
7.	Miss L. A. Baker, Professor of Geography.	B.Sc., D.Th., P.T. (Durham).	550
8.	Dr. (Mrs.) R. Choudhury, Professor of Logic.	M.A. (1st in Class I), Ph.D. (Oxon.).	210
9.	Miss R. S. Ahmed, Professor of Persian.	M.A. (1st in Class I)	150
10.	Miss S. Fatema Banu, Lecturer in Urdu.	B.A. ..	125
11.	Miss K. Gupta, Lecturer in Civics ..	M.A. (1st in Class I) ..	125
12.	Maulvi A. Khaleque, Part-time Lecturer in Arabic.	M.A. ..	50 (allowance)
13.	Miss Flora Nelson, Physical Instructress.	....	130

Total monthly expenditure was Rs. 5,330 during 1939-40.

Mr. LALIT CHANDRA DAS: Arising out of (*b*) and (*i*), is there any bar to fill up the rest of the seats if non-Moslem girl students are available for admission to the college?

The Hon'ble Mr. A. K. FAZLUL HUQ: No bar, Sir.

Stipend to trained teachers.

***91. Rai Bahadur MANMATHA NATH BOSE:** Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) the amount of a stipend per month given to each trained teacher of primary schools in the districts of Bankura and Midnapore;

(*b*) the number of teachers who were under training in the Guru Training Schools in those two districts in 1936, 1937, 1938 and 1939, respectively;

(*c*) the number of trained and untrained teachers in the primary schools of the abovementioned districts in 1936-37, 1937-38, 1938-39, and 1939-40, respectively;

(*d*) the amount of stipends given to each trained and untrained teacher in the abovementioned districts in the periods mentioned above; and

(*e*) the total sum given to trained and untrained teachers from Imperial Grants and the District Fund in the aforementioned periods in the districts mentioned above?

The Hon'ble Mr. A. K. FAZLUL HUQ: A statement is laid on the table.

Statement referred to in the reply to question No. 91.

(*a*) *Midnapore.*—A stipend ranging from Rs.4 to Rs.6 per month from Imperial Fund and Rs.3 to Re.1 from District Board Fund.

Bankura.—A stipend ranging from Rs.3-3 to Rs.3-12 from the Imperial Fund and Rs.1-4 to Rs.1-8 from District Board Fund.

(*b*) *Midnapore.*—121 during each of the years.

Bankura.—86 during each of the years.

	Midnapore.	Bankura.
(*c*) 1936-37—		
Trained	2,146	757
Untrained	3,409	706
1937-38—		
Trained	2,186	806
Untrained	3,470	737
1938-39—		
Trained	2,252	840
Untrained	3,550	786
193 -40—		
Trained	2,377	850
Untrained	3,574	822

(*d*) In the periods mentioned above, the amount of stipends given to each trained teacher ranged from Rs.60 to Rs.108 each year whereas the amount of stipends given to each untrained teacher ranged from Rs.24 to Rs.48 each year.

1936-37—	Rs.	a.
Trained	63	0
Untrained	30	0

			Rs.	a.
1937-38—				
Trained	..	..	59	4
Untrained	..	..	28	0
1938-39—				
Trained	.	..	57	0
Untrained	.	..	27	0
1939-40—				
Trained	..	..	53	4
Untrained	..	..	27	0

			Midnapore.	Bankura.
(*e*) 1936-37—			Rs.	Rs.
District Board grant		..	69,071	26,903
Imperial grant		..	1,34,279	40,884
	Total	..	2,03,350	67,787
1937-38—				
District Board grant		..	68,561	24,696
Imperial grant		..	1,32,912	41,991
	Total	..	2,01,473	66,687
1938-39—				
District Board grant		..	69,024	24,089
Imperial grant		..	1,26,912	43,101
	Total	..	1,95,936	67,190
1939-40—				
District Board grant		..	75,100	24,276
Imperial grant		..	1,23,642	41,106
	Total	..	1,98,742	65,382

Jagannath Intermediate College.

***92. Mr. KAMINI KUMAR DUTTA:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if there are any rules regarding the administration of the Jagannath Intermediate College, Dacca?

(*b*) If so, by whom were these rules framed?

(*c*) Are there any rules regarding the number of meetings that should be held of the Governing Body of the college during a year?

(*d*) How many meetings of the Governing Body were held since October, 1939?

(*e*) Why were not more meetings held?

(*f*) Have any appointments, either permanent or temporary, been made to the college staff since October, 1939? If so, who made the appointments? Have the individual members of the Governing Body been consulted about these appointments?

(*g*) Is it a fact that at the last meeting of the Governing Body a resolution was passed forming a sub-committee to go into questions of grade, etc., of the college staff with directions to submit its report by December, 1939?

(*h*) Has this meeting of the sub-committee come off?

(*i*) Is it a fact that in spite of request by some members of the Governing Body, the Secretary of the college (the Principal) did not hold a meeting of this sub-committee?

(*j*) Is it a fact that the Governing Body of the college while recommending a second term of extension to the present Principal laid down that he should submit a medical certificate regarding his fitness for work? Was such a certificate submitted?

(*k*) Have the Government given a third extension to the present Principal? If so, have they ascertained whether he is physically fit?

The Hon'ble Mr. A. K. FAZLUL HUQ: I regret to say that it has not been possible to procure the information as yet.

Appointment of Professors in the Jagannath Intermediate College.

***93. Mr. KAMINI KUMAR DUTTA:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if the present Principal of the Jagannath Intermediate College, Dacca, has a son on the college staff as a Lecturer in English?

(*b*) When was this gentleman appointed?

(*c*) Was the post to which he was appointed advertised in newspapers? If so, in what newspapers and on what date?

(*d*) Is it a fact that this son of the Principal was employed in the University of Dacca for some time? If so, when was he discharged and why?

(*e*) Is it a fact that this son was also employed by the Government in the Dacca Intermediate College? Why and when was he discharged from this college?

(*f*) Is it a fact that this son of the Principal was employed in the Eden Intermediate College? Why was he discharged from this college and when?

(*g*) Will the Hon'ble Minister be pleased to state if in this college there was a Lecturer in Mathematics named Mr. Rabindra Nath Sen?

(*h*) Is it a fact that Mr. Rabindra Nath Sen went to Edinburgh and got a doctorate?

(*i*) Is it a fact that after his return he found his occupation was gone though he acquired higher qualification?

(*j*) Will the Government be pleased to state as to why his services were terminated?

(*k*) Was there a Lecturer in English in the same college named Mr. Sunit Kumar Banerjee?

(*l*) Is it a fact that he too went to England for acquiring higher qualifications? Is it a fact that he too found that his appointment was gone after his return to India?

The Hon'ble Mr. A. K. FAZLUL HUQ: I regret to say that it has not been possible to procure the information as yet. I may add, Sir, that we have again written for information on these points.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state when was the requisition made to Dacca for getting necessary information?

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, as far as I remember two reminders have been sent but no answer has been received yet. We have sent another reminder.

Present Inspector of Schools, Dacca Division.

***94. Mr. HUMAYUN KABIR:** Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) the substantive appointment of the present Inspector of Schools, Dacca Division;

(*b*) whether he has any previous experience as an Inspecting Officer; if so, in what capacity, and for how long;

(*c*) whether there are not many senior officers who are still acting as Second Inspector of Schools;

(*d*) the names of persons recommended by the Public Service Commission for appointment as Inspectors permanently;

(*e*) whether it is a fact that the Public Service Commission did not approve of the appointment of the present Inspector of Dacca Division to his present post; and

(*f*) what are the reasons for promoting the said officer in supersession to many senior men with excellent service records?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) Head Master of a High School in the Bengal Educational Service.

(*b*) Yes, as a Second Inspector of Schools for more than a month and a half.

(*c*) Yes.

(*d*) and (*e*) Government are not prepared to disclose the recommendations of the Public Service Commission.

(*f*) Because he was considered to be superior to others in merit.

Mr. HUMAYUN KABIR: Arising out of (*a*), will the Hon'ble Minister be pleased to state how long he has been a Head Master?

The Hon'ble Mr. A. K. FAZLUL HUQ: I cannot say off-hand. It was not for long—perhaps about a year.

Mr. HUMAYUN KABIR: Was he a Second Inspector of Schools just previous to his appointment as Inspector of Schools, Dacca Division?

The Hon'ble Mr. A. K. FAZLUL HUQ: Yes.

Mr. HUMAYUN KABIR: Arising out of (*f*), is this question of consideration "superior to others in merit" the opinion of the Hon'ble Minister or of his department?

The Hon'ble Mr. A. K. FAZLUL HUQ: In this matter I was guided by the opinion of the departmental officers.

Mr. HUMAYUN KABIR: Arising out of (*d*) and (*e*), is it not in public interest to disclose the recommendation of the Public Service Commission when senior officers are superseded without sufficient reason?

The Hon'ble Mr. A. K. FAZLUL HUQ: I am advised that a disclosure will not be in public interest.

Mr. RANAJIT PAL CHOUDHURY: What is the name of this Head Master?

The Hon'ble Mr. A. K. FAZLUL HUQ: Mr. J. C. Lahiri.

Mr. RANAJIT PAL CHOUDHURY: Are all the proceedings of the Public Service Commission kept private?

The Hon'ble Mr. A. K. FAZLUL HUQ: Not all. Those that we can disclose we do, but there are others which cannot be disclosed. Sir, with regard to this I may mention that there seems to be some amount of public feeling against this appointment and I am looking into the matter.

Mr. RANAJIT PAL CHOUDHURY: Were the superior merits detected when he was private tutor to a certain relation of the Minister?

The Hon'ble Mr. A. K. FAZLUL HUQ: He was not a private tutor to any relation of any Hon'ble Minister. As a matter of fact, I do not know him personally. The honourable member must have been misinformed.

Withdrawal of the Government grant-in-aid to the girls' section of the Ashutosh College.

*95. **Mr. LALIT CHANDRA DAS:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that the grant-in-aid to the girls' section of the Ashutosh College, Calcutta, has been stopped suddenly by the Government without giving any reason to the authorities of the institution?

(*b*) Will the Hon'ble Minister be pleased to state the amount of grant-in-aid which was being paid to the said institution?

(*c*) Will he be pleased to state when was the first grant-in-aid sanctioned and what was the amount of grant-in-aid that was being paid to the institution just before the said aid was withdrawn?

(*d*) Will the Hon'ble Minister be pleased to state when was the decision about the stoppage of the grant-in-aid arrived at by the Government and when was it conveyed to the authorities of the said institution?

(*e*) Is the Hon'ble Minister aware that there are Moslem girls also being educated in the girls' section of the said institution?

**N.B.*—Questions Nos. 89 to 95 (marked with asterisks) were originally included in the list of questions and answers for the 2nd September, 1940, but were postponed till the 9th September, 1940, as the Hon'ble the Chief Minister was absent from the meeting of the Bengal Legislative Council on that date.

(*f*) Is the Hon'ble Minister aware that as the result of withdrawal of grant-in-aid, the authorities of the institution will be compelled to withdraw free-studentships and scholarships that are being granted to deserving students in the said girls' section? If so, will the Hon'ble Minister be pleased to state the reason which prompted the Government to withdraw the free educational aid to the deserving students of the said institution?

(*g*) Is it a fact that the huge amount of grant that is being paid to the Brabourne College has stood in the way of giving the said grant-in-aid to the girls' section of the Ashutosh College?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) Yes.

(*b*) Rs.300 per month.

(*c*) The grant was first sanctioned for a period of ten months from the 1st August, 1936; Rs.300 per month.

(*d*) The orders of Government were issued to the Director of Public Instruction on 3rd July, 1940, and were communicated by him to the authorities of the college on 11th July, 1940.

(*e*) Yes.

(*f*) The grant was sanctioned for the appointment of one lady tutor to advise the students and of at least one lady lecturer and I do not see why its stoppage should affect the free-studentships.

(*g*) No.

Mr. LALIT CHANDRA DAS: Arising out of (*e*) and (*f*), is it not a fact that the grant was renewed from year to year till it was stopped?

The Hon'ble Mr. A. K. FAZLUL HUQ: Yes, Sir, that is so.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state why this grant was so suddenly stopped without assigning any reason?

The Hon'ble Mr. A. K. FAZLUL HUQ: Because, Sir, the terms on which the grant was given and for which it was renewed had not been complied with although opportunity was given repeatedly to do so.

Mr. LALIT CHANDRA DAS: Sir, speaking subject to correction, may I know if the Hon'ble Minister is aware that since the grant was made in 1936, Miss Arundhati Sen was appointed on 1st August, 1937, expressly for the purpose of advising the students of the Ashutosh College according to the terms of the Government sanction and that

further another lady lecturer, Miss Ila Sen, was appointed on 10th July, 1939, and even before that there was another lady professor, Miss Surama Mitra, was appointed for teaching the girls in July, 1939, the present number of students being now 550.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, I would like to have notice, because it involves an investigation into facts of which I am not aware. I will look into this matter.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister please reconsider the question of grant if as a matter of fact the college authorities actually complied with the requirements laid down by the Government?

The Hon'ble Mr. A. K. FAZLUL HUQ: Oh, yes, certainly.

Nomination to the District Board of Dinajpur.

101. Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) the Moslem and non-Moslem population separately of the three subdivisions, Sadar, Thakurgaon and Balurghat, into which the district of Dinajpur is divided;

(*b*) the number of members which each of the three local boards of the three subdivisions, mentioned above, is entitled to elect to the District Board;

(*c*) the number of Moslem and non-Moslem members which each of these local boards elected to the District Board at the last elections;

(*d*) the number of Moslem and non-Moslem members who have been nominated by the Government to this District Board;

(*e*) the names of the subdivisions to which each of these nominated members belongs;

(*f*) whether it is a fact that no non-Moslem members from the Thakurgaon subdivision were nominated to the District Board even when not a single non-Moslem member was elected by the Local Board, if so, why;

(*g*) the principle which the Government adopted in selecting members for nomination; and

(*h*) the names of the Chairman and the two Vice-Chairmen of the District Board?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, Minister in charge of the Public Health and Local Self-Government Department): (*a*) to (*e*) and (*h*) A statement is laid in the Library.

(*f*) and (*g*) Yes. The object of nominations to local bodies is not primarily to secure regional or communal representation but to secure the representation of important minorities, which are not sufficiently represented through election, and the association of persons whose presence on the local bodies would, in the opinion of Government, be specially helpful to the administration of these bodies.

This principle was adopted in the case of the Dinajpur District Board.

Rai Sahib JATINDRA MOHAN SEN: Arising out of (*f*), it is admitted that no non-Muslim members were elected from the Thakurgaon Local Board and no non-Muslim member has been nominated from that subdivision to the District Board. Does not the Government think that this non-representation of non-Muslims in the subdivision is detrimental to the interest of the Board?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, certainly it is not detrimental to the interest of the Board, but it may be detrimental to the interest of that particular community living in that particular area. Government has stated very clearly that nominations are not meant to secure regional or communal representation, but for giving representation to those communities which have not been able to secure seats through election and for giving seats to persons whose association may be specially helpful to the administration of a local body. These are the principles on which nominations are made.

Rai Sahib JATINDRA MOHAN SEN: Is not the Hindu community in the Thakurgaon subdivision a majority community?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir, it is.

Rai Sahib JATINDRA MOHAN SEN: Does not the Government consider that it is highly undesirable that not a single Hindu should have been on the Board from the Thakurgaon subdivision?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have clearly stated here on what principles nominations are made, but Government do not consider that it is essential that Hindu community should be specially represented on the Board or else the interest of the area will suffer.

Rai Sahib JATINDRA MOHAN SEN: Regard being had to the fact that not a single Hindu was nominated or elected from the Thakurgaon subdivision to the District Board, did not the Government think it desirable that at least one or two Hindus should have been nominated from the Thakurgaon subdivision to the District Board?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it is a matter of opinion.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state the percentage of Hindus in the Thakurgaon subdivision?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Khan Bahadur ATAUR RAHMAN: Is it not a very microscopic minority in the Thakurgaon subdivision?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I ask for notice.

Mr. NARESH NATH MOOKERJEE: May I know from the Hon'ble Minister what principle was followed in making this nomination? Was the ideal laid down herein followed?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The ideal laid down here was followed.

Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister kindly explain the principle that has been applied in this case? If the regional or communal representation was considered, how was it that, when all the elected members were Muslims all the nominations too went to the Muslims and not to a single Hindu?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I will again refer my honourable friend to the last portion of my reply. The reply is that the object of nominations to local boards is not primarily to secure regional or communal representation but to secure the representation of important minorities which are not sufficiently represented through election and also the association of persons whose presence on the local bodies would, in the opinion of the Government, be specially helpful to the administration of these bodies. So, the second alternative is very important and in making nominations on the local board Government have to choose between the two.

Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister be pleased to state why the former principle has been given the go-by?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There was no other alternative.

Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister be pleased to mention the qualifications of the persons who were considered to be most fitted to be nominated in the interest of the general public?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The qualifications are their helpfulness for carrying out the administration of the local bodies.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state if it is necessary for Government to nominate members of a minority community, subdivision by subdivision, or for the whole district?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is not always necessary to nominate from among the minorities, subdivision by subdivision. But if a particular community is represented on the whole, that is all right. In fact, nominations are never given on regional basis.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state how the members were nominated from this particular subdivision?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The information is laid on the table.

Mr. NARESH NATH MOOKERJEE: Are we to take then that the nomination of a Hindu to the District Board of Dinajpur was, in the opinion of the Government, detrimental to the general public interest?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir; but Muslims were considered to be more helpful to the administration of the board there.

Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister be pleased to state if it is not a fact that the District Magistrate nominated at least two Hindu gentlemen for appointment as members of the District Board from Thakurgaon subdivision?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is confidential and Government are not prepared to disclose what transpired between them and the District Magistrate.

Flood in the Contai subdivision.

102. Rai Bahadur MANMATHA NATH BOSE: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if it is a fact that due to heavy rains in July last about 200 persons in the thana of Palaspur (in the Contai subdivision) alone lost even their homesteads? If so, did the Government arrange for any relief or take any step to help these people?

(*b*) Is the Government aware that in the major portion of the Contai subdivision there would be no cultivation on account of flood and in consequence failure of crops will follow? Have any steps been taken to remedy this?

(*c*) Was there rise of water above the danger mark in Barochouka basin in the Contai subdivision? Have any steps been taken to prevent breach of the embankment?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) and (*b*) I am informed by my Hon'ble colleague in charge of the Revenue Department that the number of persons whose houses were destroyed in the flood was very far below 200. Rs. 110 and about 10 maunds of paddy which had been collected locally from charitably disposed persons were distributed among those affected. My Hon'ble colleague has also informed me that sums of Rs. 1,01,500 for agricultural loans and Rs. 5,000 for gratuitous relief have been sent to the Subdivisional Officer for flood relief work. It is not possible to express any opinion as to the prospects of crops.

(*c*) The answer to the first part of the question is in the affirmative. I am glad to say that the Collector has reported that the officers of the department of which I am in charge took all necessary steps to reinforce the embankment. Armed constables and rural police were posted to prevent unauthorised cuts. Unfortunately the *zamindars*, I am informed, did not take adequate action to strengthen their embankment which was overtopped on the 27th and 28th August.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state if Government think that the agricultural loan and the gratuitous relief which have already been sanctioned would be enough for the major portion of the Contai subdivision?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I would refer the honourable member to the Revenue Department for an answer to that question, as I have already said in my reply to (*a*) and (*b*).

Rai Bahadur MANMATHA NATH BOSE: Is the Hon'ble Minister aware that the river Barachawk has been breached afterwards?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Yes, Sir.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state what steps have been taken to remedy it?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Once a breach occurs, there is hardly any remedy for it. What we can do is to strengthen it so that breaches may not recur in future. But unfortunately, this particular area, owing to an absolutely wrong policy of erecting embankments indiscriminately and thereby interfering with the spill areas, has been subject to these floods. However, much alert we may be to keep the embankments in proper condition, there is no guarantee that there would be no breach if there is an abnormal flood either caused by river or by heavy rainfall.

Khan Bahadur ATAUR RAHMAN: Are not these embankments the real cause of the flood?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Embankments are not the cause of flood; they contribute to it.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state if the Government are thinking of taking steps to do away with these embankments?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: The policy which the Government is following now is to do away with embankments but unfortunately in this area it is not possible to do so everywhere as the lands have developed into populous towns with homesteads and cultivable fields. We are selecting particular areas and by undertaking a survey trying to find out how much of the embankments of that area can be removed.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state if he is aware that the major portion of the Contai subdivision is still under water?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Yes, Sir, as I have already stated, as a result of the wrong policy in the past of putting up embankments to prematurely reclaim an area which was subject to innundation.

The North Bengal highway.

103. Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*a*) whether the alignment of the North Bengal highway through or by the town of Dinajpur has been settled, and if so, through which places;

(*b*) what is the length of the road on which the works have been taken up;

(*c*) how many contractors have been engaged and the average length of road which has been given to each of them;

(*d*) whether the contract has been given for different kinds of works, viz., jungle-clearing, earthwork, metalling, etc., to different persons and parties or whether contract for all works for completing the road for definite length has been given to the same contractors;

(*e*) how many contractors have been engaged and what are the values of the works which have been given to each of them;

(*f*) of the contractors how many are Bengalis and how many non-Bengalis and to which provinces do they belong;

(*g*) how many local contractors of Dinajpur, both Moslems and non-Moslems, submitted tenders and how many of these tenders have been accepted; and

(*h*) whether the Government propose to direct the Superintending Engineer to deal sympathetically first with the tenders of the local contractors and then with those of other Bengali contractors?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: (*a*) The alignment has been settled and it passes outside the town of Dinajpur proper.

(*b*) Ten miles.

(*c*) Two—five miles each.

(*d*) All items of work (excluding bridges and culverts) have been given to the same contractor.

(*e*) Two—Rs. 72,994 and Rs. 74,346.

(*f*) One Bengali firm of Calcutta and one Sindhi registered as a first class contractor under the Darjeeling Division.

(*g*) No tender was submitted by any local Moslem contractor. Five non-Moslem local contractors submitted tenders; of these four were unregistered and one was registered as a 2nd class contractor not eligible for work over Rs. 50,000.

(*h*) Action on the lines proposed would not be in accordance with the policy of Government.

Rai Sahib JATINDRA MOHAN SEN: Arising out of (*f*), is the Bengal firm of Calcutta a first class registered firm of contractors?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I would try to explain the system which we have adopted in calling for tenders. We have prepared a list of approved contractors in each division whose work has been tested by the Department. The policy which we are now following is that the officer who has the authority to accept the tenders has to accept the lowest tender received from among the names on the lists. It is unusual for a Calcutta contractor who has no local knowledge to go and tender for work in Dinajpur.

Rai Sahib JATINDRA MOHAN SEN: My question has not been answered. My question is whether the Bengali firm of Calcutta is a first class firm of contractors?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I could not quite follow which part of the question has not been answered. The question (*f*) is, "of the contractors how many are Bengalis and how many non-Bengalis, and to which provinces do they belong"? To that my answer is, "one Bengali firm of Calcutta and one Sindhi registered as a first class contractor under the Darjeeling Division".

Rai Sahib JATINDRA MOHAN SEN: Arising out of (*f*), viz., "one Bengali firm of Calcutta and one Sindhi registered as a first class contractor under the Darjeeling Division", my question was: if the Bengali firm of Calcutta was a first class registered contractor.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: That must be so.

Rai Sahib JATINDRA MOHAN SEN: Then, Sir, arising out of (*g*) and (*c*), what are the qualifications to become a first class contractor?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: All contractors in the department have to satisfy three tests, viz., (1) financial stability; (2) technical knowledge; and (3) past experience. Now, Sir, to eligible for being enlisted as a first class contractor, he must be able to take up work of the minimum value of Rs. 50,000.

Khan Bahadur ATAUR RAHMAN: Was there no other Bengali contractor available so that one Sindhi contractor had to be imported from outside Bengal?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: It is not a question of importing anybody. He was there, already doing the work of the department. As I have already stated, there is also a Bengali contractor in the list, and the tender of the Sindhi contractor being the lowest, we had to accept it.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Arising out of (*h*), will it not be the policy of Government to give preference to Bengali contractors over non-Bengali contractors?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Usually, if there are two firms who have tendered, standing more or less in the same position, one being a Bengali and the other non-Bengali, preference is given to the Bengali; otherwise, the difficulty is that we cannot then stick to the policy of the lowest tender. Supposing, the tender of a Bengali firm is not the lowest, Government will have to incur an additional expenditure, *i.e.*, the difference between the lowest tender and that of the other whose tender has to be accepted because he is a Bengali.

Mr. HAMIDUL HUQ CHOWDHURY: Is there any standing rule that when two tenders are equal, Government always prefer the Bengali?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Even if there be no rule, that is the practice.

Mr. HAMIDUL HUQ CHOWDHURY: Arising out of the answer before last, what method Government do follow to give encouragement to the Bengali contractors?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: By enlisting their names in the approved list.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Are not tenders submitted according to the standard rates?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Yes, Sir, the estimates are prepared and then the contractors are asked to quote their rates.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Are the rates quoted the standard that are accepted?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Yes, sometimes.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: If a Bengali gives a tender at the standard rate should it not be preferred?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: No, simply for the reason that that will cost Government more.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Then what does the standard rate mean if it does not mean that this is the rate which should be accepted?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Rates are not revised every year. Besides there have been occasions when there has been rate-cutting between the contractors as a result of which Government have benefited.

Khan Bahadur NAZIRUDDIN AHMAD: Is it not a condition of the tender that the lowest rates quoted should be accepted?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, the present practice is to accept the lowest tender.

Khan Bahadur NAZIRUDDIN AHMAD: Is it not a fact that accepting too low a tender will lead to the danger of bad quality of work and corruption?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I am afraid, Sir, it is difficult for me to explain this matter in reply to a question. We have been criticised in another place for giving authority to our officers to select a contractor of their choice which is alleged to have led to jobbery and corruption. As a result of that criticism, we have adopted this policy more or less as an experimental measure. I agree with my friend the Khan Bahadur that it becomes very difficult at times to get the right type of contractors if the officer has no option but to accept the lowest rate.

Mr. SHRISH CHANDRA CHAKRAVERTI: May we know the name of the Sindhi contractor? How long he has been working in this department as contractor?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I am afraid I want notice for that, but I am sure he must be doing the work of the Public Works Department for some time past.

Mr. HUMAYUN KABIR: Arising out of (*e*), will the Hon'ble Minister please state which tender was supplied by which contractor?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I am not quite sure. I think both by the Sindhi contractor.

Mr. HUMAYUN KABIR: We find in answer (*e*) that the two contractors have been given two different contracts and my question was which was the contract given to which contractor. Will the Hon'ble Minister please look to the question and answer again?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I think I have stated correctly when I said about the Bengali contractor. I believe both the sections have gone to the same contractor.

Mr. HUMAYUN KABIR: Are we then to understand that the work has been given to the same contractor, to the Sindhi firm, and not to any Bengali contractor?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I believe so.

Mr. HUMAYUN KABIR: In that case, may we take it that the answer given is absolutely worthless and misleading?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Well, Sir, it is for the honourable member to give any value he likes to the answer. I would still stick to my answer to paragraph (*f*).

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Is it not a fact that too much interference by the Legislators with the disposal of tenders proves highly detrimental and is opposed to parliamentary practice?

Mr. PRESIDENT: Order, order.

Construction of bridge over the Dhepa river.

104. Rai Sahib JATINDRA MOHAN SEN: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state what is the estimate of cost for construction of the bridge on the river Dhepa at the fourteenth mile from Dinajpur town on the alignment of the North Bengal highway?

(*b*) What will be the length and breadth of the bridge and to whom has the contract been given?

(*c*) How many local and Bengali contractors submitted tenders for the bridge and whose tender has been accepted?

(*d*) When is the bridge likely to be completed?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: (*a*) The estimated cost is Rs. 1,99,200 including Rs. 41,095 as departmental charges.

(*b*) and (*c*) The length of the bridge is 309 feet and the breadth is 24 feet.

The contract for the substructure portion of the bridge at an estimated cost of Rs. 98,000 has been given to Seth Richumal, an approved contractor of the Darjeeling Division.

Five tenders were received from Bengalis none of whom came from the district of Dinajpur.

(*d*) I am afraid that owing to the difficulty in obtaining steel at present it is not possible for me to forecast when the bridge is likely to be completed.

Rai Sahib JATINDRA MOHAN SEN: It is said the contract has been given to Richumul contractors. Is he a Sindhi contractor?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Yes.

Rai Sahib JATINDRA MOHAN SEN: Is it the same person to whom the contracts for the two portions of the road have been given?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I think so, although I am not quite sure.

Rai Sahib JATINDRA MOHAN SEN: It comes to this that contract of about Rs. 3 lakhs has been given to one man.

Mr. PRESIDENT: Order, order. This is a mere argument. By adding the number you may have the total.

Framing of rules under the Money Lenders Act, 1940.

105. Mr. NARENDRA CHANDRA DATTA: (*a*) In view of the fact that the Bengal Money Lenders Act of 1940 is going to come into force on 1st September, 1940, do the Government propose to frame rules immediately, under section 3 of the Act, for formulating conditions to be complied with by the Banks before they are notified under section 3

of the Act, so that the rules of conditions may be approved by the Legislatures, during the present session of the Legislatures and before the said Act comes into force?

(*b*) If not, do the Government realise the difficulties which will arise in the operation of Banks for want of being notified after the Bengal Money Lenders Act of 1940 comes into operation, as the intervening time is not more than 25 days only?

(*c*) If so, what steps do the Government propose to take to safeguard the interest of Banks which will require to be notified?

(*d*) Do the Government propose to invite applications before the 1st September, 1940, from the Banks to be notified or the Government want the Banks to apply for notification as and when the Banks may like to do so?

(*e*) If the Government propose to take time to formulate conditions, then do the Government propose to exempt Banks from the operation of the Bengal Money Lenders Act of 1940, in the intervening period from the 1st September, 1940, to the date of conditions being approved by the Legislatures and the time necessary for the notification of Banks, which may apply for being notified under section 3 of the Act?

MINISTER in charge of the JUDICIAL and LEGISLATIVE DEPARTMENT (the Hon'ble Nawab Musharruff Hossain, Khan Bahadur): (*a*) to (*d*) In order to frame rules under section 3 of the Act I am already gathering materials from different sections of the public. Some have given their opinions while others are still due. It will take some time to gather them all for due consideration. Everything possible is, however, being done to expedite matters.

(*e*) Government have no such power of giving exemption under the Act.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether by this time rules have been framed under section 3 of the Act formulating conditions to be complied by Banks to be admitted as notified banks?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The answer is perfectly clear. I am gathering materials from different groups of the House, as to the condition that will be imposed. I have got a reply from the European group but I have not received any reply from the Congress group. After I have received the opinion of the whole House, the matter will be considered by the Cabinet and then it will be brought before the House sooner or later.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state why was the Act brought into operation on the 1st September without framing rules first and giving opportunity to the Banks to be notified before the Act was actually brought into operation?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The point is this. In the case of rules of lesser importance such as registration of money-lenders, 6 months' time has been given by the Legislature to frame those rules. But I have already framed those rules and sent them for the opinion of different bodies and if they think that they have no objection to the rules that have been framed, the rules will be before the public. As regards this clause, the House ought to know that the matter is very complicated and saying that the Banks should be notified means that the Banks will be absolutely out of control of the Money Lenders' Act and steps that will be taken must be very cautious. I can tell my friends that these Banks which have already been exempted are under very severe investigation and Government has been advised that something should be done to remove some of those Banks from the category of Scheduled Banks. Then in the case of other new Banks if it was so easy, my friend Mr. Suhrawardy who actually introduced this new provision in the Bill ought to have finished this when it was presented. But it was not possible for him to do so. I am doing all that is humanly possible and I hope to be able to come to a solution soon.

Mr. SHRISH CHANDRA CHAKRAVERTI: How long are we to wait till the rules are framed?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: If you do not work how can you blame me?

Adjournment Motion.

Mr. PRESIDENT: I have received notice of an adjournment motion from Mr. Ranajit Pal Choudhury which runs as follows:—

> "That the House do now adjourn to discuss a definite matter of urgent public importance, viz., spoiling the career of some Bengali students who were admitted in the Bengal Engineering College this year but who have subsequently been sent back to their distant homes, cancelling their admissions".

Mr. Pal Choudhury, will you please state how this is a matter of public importance?

Mr. RANAJIT PAL CHOUDHURY: Sir, it is important because it concerns the future of many of our boys, who have been thrown out. They have been thrown out in such a period of the year that they cannot find admission for their vocational training in any other college and I submit, Sir, that it is urgent——

Mr. PRESIDENT: I have not asked you to explain the urgency but to state how it is primarily the concern of the local Government.

Mr. RANAJIT PAL CHOUDHURY: Because, the Bengal Engineering College is under the Calcutta University which is under the Bengal Government.

Mr. PRESIDENT: Will the Hon'ble Minister in charge of the Education Department please state if the Government is in any way connected with the decision or policy underlying this order.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, I received this notice only in the afternoon when I came to the House. It is dated the 6th. 7th was a Saturday and perhaps it was not sent on that day. 8th was a Sunday and to-day is the 9th. Anyway, I do not blame anybody.

As far as I remember, we acted under instructions from the Government of India. Some time back, I think 8 or 10 days ago, I remember to have answered a question in the Lower House in this connection. The information that I gave was that the Government order was issued on the 3rd September suspending the first-year class of the Bengal Engineering College in order to allow the use of the college as a training centre for the Air Force personnel. We acted in this matter under the orders of the Government of India more than a week ago. So, I submit that this motion is late by a few days. At any rate, I submit, Sir,——

Mr. RANAJIT PAL CHOUDHURY: Why then students were taken in?

The Hon'ble Mr. A. K. FAZLUL HUQ: The students were taken in because we thought that there would be no interference. But after we admitted the students, the Government of India desired that the college should be used as the training centre for the Air Force Personnel and we carried out their orders. Some arrangements are, however, being made for those students who have been turned out, but we cannot give full facts just at the present moment. If you give permission and if a date is fixed, I will be able to give detailed facts.

Mr. PRESIDENT: I think we should adopt some such procedure. I was looking for a suitable procedure to deal with motions of this nature. Such motions are not of sufficient importance to be treated as

motions for adjournment of the House. In the British House of Lords there is a procedure "for moving for paper". When such motions are made, the Hon'ble Minister in charge of the department avails himself of the opportunity to explain the position of the Government. I propose to adopt some such procedure instead of allowing the motion for adjournment and I think it would be sufficient if in this case the Hon'ble Chief Minister makes a statement as he has promised to do. I do not think, Mr. Pal Choudhury, you should press the motion.

Mr. RANAJIT PAL CHOUDHURY: All right, Sir, in that case I do not press my motion. But may we know when we can expect the Hon'ble the Chief Minister to make the promised statement?

The Hon'ble Mr. A. K. FAZLUL HUQ: As early as possible: may be the day after to-morrow; and if after that my honourable friends think that that information is not sufficient, I shall give as much information as possible.

The Bengal Co-operative Societies Bill, 1940.

Mr. PRESIDENT: The House will now resume further discussion of the Bengal Co-operative Societies Bill, 1940. Amendments Nos. 395, 396-397, and 400 were before the House for discussion, last time.

Mr. NUR AHMED: Mr. President, Sir, in these amendments a question of principle has been raised which deserves serious consideration. The question of having an independent audit system suggested in these amendments may be a sound principle from the point of view of abstract idea, but we must see how far in practice it will give better result and will also be more conducive to the best interests of the movement. When the movers of the amendments and their supporters spoke, it seemed as if these amendments, if accepted, would lead to better the condition of the co-operative movement. They condemned the present procedure of audit by officers appointed by the Registrar, but let us examine what the present system is and what the proposed system would actually be. I must say that I have not been convinced by the arguments and the facts placed before the House by the movers and their supporters. It is suggested that this system cannot work well because the officer who controls and supervises the movement also appoints the officers who audit the societies; but neither facts have been adduced nor evidence placed before us to show where and how it has failed. Sir, the present system is not a new one; it has been working for years together. From the very inception of this movement and from its history it appears that this movement has undergone various changes. Committees after committees have been appointed to go into the very depth of this movement and they have

made various recommendations, but we find this self-same provision in the enactments of all other provinces in India, like the one embodied in this Bill.

Sir, in 1904, the Government of India appointed a committee called the MacLagan Committee to go into the organisation and the working of this movement and they submitted a report. From that report, it does not appear that the Committee recommended any change in the system of audit. By the Government of India Act of 1919, the Co-operative Department was made a provincial subject, and since then the various provincial Governments appointed committees after committees. Those committees have submitted their reports. In those reports drastic changes were suggested. The Central Provinces Government appointed their committee in 1922; the Bihar and Orissa Government appointed their committee in 1923; a few years later, the Townsend Committee of Madras and the Auckland Committee of Bombay were constituted. On the basis of the reports of those committees, new provincial Acts have been passed. The Bombay Act was passed in 1925; the Madras Act in 1932; the Bihar and Orissa Act in 1935; the Burma Act in 1927; and so on. And in all those Acts will be found a provision similar to our own with regard to the system of audit. For this purpose, I can cite section 37 of the Madras Act of 1932, and section 23 of the Bihar and Orissa Act of 1935. Both of them contain a provision similar to the one proposed in this very Bill. Now, a question has been raised that an auditor appointed by the Registrar will not be in a position to criticise the departmental orders issued by the Registrar. I must admit that there is some force in that argument, but there is another aspect of the case as well. If the auditor is appointed by an outside body, his report, when submitted, will go to a superior officer, namely, the Secretary of the department, as suggested by some of the members and to the Chief Auditor, as suggested by some other members. That superior officer in his turn will send it on to the Registrar who may accept the recommendations of the auditor or not. In case there is a difference of opinion between the auditor and the Registrar, no prompt action can be taken on the audit note and in that case the very purpose of the audit may be defeated. There is also the question of additional cost involved. Who will pay for this extra charge? The erstwhile Congress Governments in the other provinces refused to separate the Judiciary from the Executive for which they had been fighting for years together on the ground of extra costs involved. Similarly, the present audit system has been working well and has never been found unsatisfactory. On that ground, as in the case of the separation of the Judiciary from the Executive, there is no force in the suggestion to constitute an independent audit system. Sir, I have to go through the audit notes of three different bodies with which I am connected. As the Chairman of a Municipality, I have to submit explanations year after year on the audit notes submitted by

the Auditors under the control of the Accountant-General of Bengal. I have also, as the Secretary and President of four or five co-operative societies, to submit explanations on the audit notes made by the departmental auditors. Then again, I have, as the Secretary of a Joint Stock Bank, to see the audit report of the Chartered Accountants who audit that bank. I submit, Sir, with all respect to the Chartered Accountants, that the audit report of the Joint Stock Bank appears to me most unsatisfactory, although, I must say, there are exceptions. Such accountants do the audit work with an eye to their next appointment, with an eye to please the Directors so that they may get the appointment next year as well. As regards the audit reports of the auditors appointed by the Accountant-General, and by the Registrar, Bengal, I do not find very much difference. The Auditors are under dual control in that they have to submit their audit notes and explanations to the Accountant-General, Bengal, through the District Magistrates concerned. When there is a difference of opinion, there ensues a lot of trouble in the shape of correspondence containing explanations and further explanations. It sometimes happens that it takes years together to settle audit objections. This entails much loss of time, and makes the purpose of audit ineffective. I submit this is one of the important causes for not separating the audit from the control of the executive head, and to establish this point of mine I have placed these facts before the House for its calm consideration before arriving at a final decision on the question. I doubt that any case has yet been made out to effect drastic changes in the system of audit.

Sir, I strongly support the provision made in the Bill-clause and oppose the amendments.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, at the outset I may say that so far as this amendment is concerned, we are in full agreement with its spirit and its underlying ideas. We have always held the view that the old system by which the auditor was made a subordinate officer to some of the lowest executive officer of the department, made it possible for corruption to prevail without being detected. We strongly pressed this point of view and we are glad to find some change in the old system introduced in this Bill. Now, Sir, all the arguments that have been advanced are based upon the old system. Under the old system the danger was that the auditors were subordinate to the lowest executive officers of the department—I mean the Inspectors of the Co-operative Department. These Inspectors, as far as I know, are attached to certain circles over the head of the auditors, and the auditors' prospects, promotion and everything depended upon the report of the Inspectors. The audit report itself had to pass through the Inspectors and through them to the Assistant Registrar of the Co-operative Department. That system gave opportunity for concealment of facts. So, the arguments of my friends opposite are quite relevant

so far as the old system is concerned. But since 1939, when this Bill was being discussed by us, we brought to the notice of the Government the strong feeling we held against the system on the basis of the fact that some of the embezzlements which came before the courts showed that they were due to laches on the part of the auditors. As the result of such strong representations from our side, Government decided to incorporate an important modification in the status and position of the Registrar, of course, I speak subject to correction by the Hon'ble Minister,—namely, that the Registrar shall be the chief officer of the department, both over the head of the executive as well as of the audit staff. So far as the Registrar's responsibility is concerned, I may state that it was not because of the Registrar, but because of the laches of the auditors that there had not been proper audit and that there was fraud in central and rural banks. All the allegations were against the subordinate officers. Therefore, it has been decided to make the Registrar the principal officer responsible for both auditing as well as administration of the department. After the Registrar, they have divided the function in this way: There has now been appointed since 1939 an officer called the Chief Audit Officer for the whole of the province. Previously, the reports had to come always through the Inspector. Now, under the present system, the Chief Auditor controls the Divisional Auditors; the Divisional Auditors control directly the auditors. The report goes to the Divisional Auditor without passing through the Inspector now. The Divisional Auditor's report goes to the Chief Auditor and now the Chief Auditor's report goes finally to the Registrar. Now, in the matter of controlling the prospect of the auditors, no longer the Inspector or the Assistant Registrar plays any part. They are directly under the control of the Chief Auditor. Therefore, so far as the division is concerned, there has been a complete severance of the function of officers below the Registrar. They are as independent of the Assistant Registrar as they would be if the entire system is taken out of the control of the Registrar. (Mr. AMULYADHONE ROY: Is he not a creature of the Registrar?) Quite true. But up to now nothing has been said to the effect that the Registrar in his executive capacity has been responsible for advances of loans or has influenced the administration of local banks. With reference to the instances that my learned friend, the Leader of the Opposition cited the other day, I may only state that in both these instances, I am constrained to say—because I had something to do at certain stages of these cases—that it was the departmental officers who disclosed the fraud and in one case in which a compromise was effected, a sum of no less than Rs. 1,16,000 was involved. The Directors of the Central Bank were very responsible persons, persons who occupied high positions in the town of Comilla. They were leading lawyers and leading public men and some of these respectable men were involved in that defalcation. It was the officers of the department who brought out this fraud. Now, who is

responsible for this case not being proceeded with? Is it suggested that the department did not want to proceed with the prosecution? Certainly not. The department pressed till the last, including the District Magistrate, that there should be a prosecution irrespective of the amount of loss the Board might suffer thereby. Then, proposals were mooted by very influential men of the district to the effect that Government should not suffer the loss but should accept the money that has been lost to the bank and drop the prosecution. That was not a proper course which public men of importance should have taken. The department was not to be found fault with. As my friend Mr. Quasem the other day said, it is public opinion that tolerates and thereby encourages most of the corruptions that prevail in this organisation. There was an attempt to suppress fraud where men occupying important position were involved. They are responsible for the Auditors not being bold enough to disclose defalcations so long as the Auditors themselves were under the Inspectors or the Assistant Registrars. So, it must be understood that defalcations are not committed by the officers of the department but mostly by the non-official workers of the Co-operative Banks the officers of the department coming to know of the defalcations only when they investigate the state of affairs of the bank. If public men will not come forward with condemnation of those who are responsible for the defalcation, then no amount of separation can give you the security that my friends opposite are anxious for.

Sir, I had occasions in my professional career to appear some times for prosecution and some times for defence in cases in which the limited companies figured as accused. In those cases, I found that perfectly good audit reports were there on record, but that in many instances, someone interested did come forward before the court over the head of the Auditor's report, over the head of the Registrar of Joint Stock Companies, to prevent disclosure about the fraud committed by the Directors.

Sir, there are also hundreds of such defalcations in local bodies in which the Accountant-General of Bengal under the Auditor General controls the audit. The defalcation cannot be checked by separating the audit department altogether. As long as the present system which has been introduced in 1939 is not given a trial, we feel it our duty to support the provisions of this Bill. I hope the Opposition will not press, though I agree, as I have said in the beginning, with the abstract idea underlying the amendment. I hope that they should not press their amendment but give this present system a chance. I am prepared to concede to the Opposition to the extent that the audit report should finally come before the Government, that the Government must examine the audit report after the Registrar has examined it. But, Sir, there will be no sense in separating audit at present: it should be kept entirely under the control of the Registrar.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have listened with very great attention to the debate that has taken place in this House over the three amendments suggesting that the audit of the Co-operative Department should be taken out of the hands of the Registrar and should be placed in charge of an independent body. Two of the amendments do not exactly agree with that point of view but suggest that audit should be under the control of the Provincial Government and not of the department itself while the third one suggests that it should be under the Chief Audit Officer responsible to the Secretary of the department.

Now, Sir, so far as the suggestion in principle goes, my honourable friend, Mr. Hamidul Huq Chowdhury has dealt with it and I entirely agree with him. In point of fact, Sir, in reply to the motion of my honourable friend, Mr. Shrish Chandra Chakraverti, on the 19th of August, suggesting that the Bill be sent to a Select Committee of this House I pointed out with respect to one of his suggestions under this head that we had already taken steps to separate audit so far as the Central Financing Banks were concerned, but with regard to the thousands of village societies it is not only no problem but it is an impossible task for us to undertake.

Sir, the argument of my honourable friend the Leader of the Opposition is that unless there is a proper audit, or to go further, unless the audit is taken out of the control of the department, there is no chance of detecting defalcations. Sir, the other day my honourable friend Mr. Abul Quasem gave the answer that it is not the departmental officer who is responsible for such defalcations. Sir, it was on the 8th of February, 1938, that in reply to a question put in this House by one of the former members, Khan Bahadur Muhammad Ibrahim, supplemented by Khan Bahadur Ataur Rahman I had to place before the House a list of such cases and to show that in regard to the defalcations that took place under those circumstances, the department had absolutely no responsibility and that it appeared on examination of each one of those cases that the audit was undertaken by absolutely independent bodies. In some cases audit was done by Chartered Accountants, in other cases the audit was done by Incorporated Accountants and it fell to the lot of some of my officers to detect the defalcations involving lakhs and lakhs of rupees. We know of cases where a responsible member of society has been involved and when the defalcation was detected, it resulted in suicide. Sir, I would not go into those cases because, I entirely agree with my honourable friend Mr. Abul Quasem that we have got to hang down our heads in shame if we are to repeat and discuss such matters openly and publicly on the floor of this House. The question is not that when the audit is taken out of the hands of the Registrar that there is no chance of any defalcation, but that it is necessary to see that not only public opinion,

but the character of the people connected with the movement is so changed that they cannot think of cheating one another. It is for that purpose that we have now got an enlarged staff with proper training, one set to guide and instruct so far as the general administration is concerned and an entirely different set to do the audit. I do not say, as I have always maintained, that the departmental staff is not to be blamed, but they are not to be blamed to the extent to which they are sought to be blamed. If there was anything wrong it was not due to anything inherent in them to be condemned. But, Sir, the difficulty was this, that the department suffered from the fact that it was under-staffed and that the staff it had, had no training. Therefore, so far as these two points are concerned, with the formation of the present Government they tried their very best to remove this difficulty by enlarging the staff and putting the whole staff through training. As my friend Mr. Hamidul Huq Chowdhury has pointed out to the House already, so far as audit is concerned, specially so far as the audit of the Central Banks is concerned, it is now entirely in charge of a different body, a body different to that which does the general supervision work.

Then again, Sir, what is it that we understand by general supervision. If you will be good enough to analyse the position you will find that so far as general supervision is concerned, or management of societies or Central Banks is concerned, it is entirely in the hands of non-officials. Section 4 of the existing Act II of 1912 mentions the circumstances under which a society can be registered. After the registration of the society, the head of the department has practically little to do as regards its internal affairs. It is only when the societies include the Central Banks and ask for some advice or registration of certain rules that the Registrar has got to depute an officer to explain and guide them in the right line. But section 17 of that Act makes the Registrar responsible for the audit of the co-operative society. In the course of the audit if anything wrong appears, it is for him again to give them proper direction so that the defects may be removed. There is no section in the existing Act II of 1912 by which these directions of the Registrar can be enforced. All the power that the Registrar has under the existing Act is to direct a further enquiry under section 35 and if the result of the enquiry is not satisfactory, then he can direct the dissolution of the society under section 39. But that is not, Sir, what we all intend to do. Under the present Bill, we are thinking of different steps being taken at different stages in the course of the activities of the societies. We have got various kinds of societies and they need advice at different stages. If, as some of my honourable friends suggest, the position were that the managing committee of the society, most of whom consist of non-official members of the public, although I may say in some cases there are official members also, do not conduct their business in a proper way and if they do not listen to the advice of the Registrar, we have no power to bring them

round. If we look to the question of supervision of the administration, it is entirely in the hands of the non-official public. So far as this is concerned, we have got very little to do in the present Bill. We do not want to impose our will on anybody. All that we seek to do, should any such case arise, is to make the instructions of the head of the department with regard to better administration and removal of defects, effective. It is with that end in view that we have proposed to give some powers to the Registrar at different stages.

Sir, so far as audit is concerned, under the present system it has now been in charge of an entirely different body which have nothing to do with the staff of the central banks and societies and have no connection with the controlling activity of those bodies. If that is the position then, I submit, Sir, there is hardly any justification for entertaining any apprehension as has been done by some of my honourable friends. My honourable friend, the Leader of the Opposition, was good enough to say the other day that he knew of cases of defalcations; but we have also known of cases where even in limited companies there have been defalcations when auditing was done by independent agencies, like Incorporated Accountants and Chartered Accountants.

My friend Mr. Nur Ahmed has pointed out that in other provinces, like Bombay and Madras, although they have recently passed legislations regarding the co-operative movement, they have not thought of doing anything of this nature, namely, to take audit out of the hands of the department absolutely. No other province in India has done this. On the contrary they have thought that if any defects appear in the audit it is only necessary that there ought to be somebody at the top to see that these defects are removed and the general administration of the society put right. So, Sir, I submit that some of us are labouring under some amount of misapprehension. They are under the impression that the general administration as well as audit is absolutely in the hands of Registrar. That is not exactly so. General administration and management is quite distinct from audit. As I have explained a moment ago, the general administration and management of the society is conducted by non-official members. It is only necessary that they should have proper instructions in order that their activities may be directed through proper channels. I submit, therefore that, although I should have been happy if we could have made a provision like that, it is not possible to do anything beyond what we have done. I would request my honourable friends to withdraw all the amendments or I shall have to oppose them.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Humayun Kabir: that for sub-clause (*1*) of clause 75 of the Bill, the following be substituted, viz.—

"(*1*) The accounts of every co-operative society shall, at least once in each year and by such date as may be prescribed, be

audited by an authority appointed by the Provincial Government and independent of the Registrar and the Co-operative Department in the manner prescribed by rules framed under this Act."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is the amendment of Mr. Shrish Chandra Chakraverti: that in sub-clause (*1*) of clause 75 of the Bill—

(*i*) the words "by the Registrar or" occurring in line 3, be omitted;

(*ii*) after the word "by" occurring in line 3, the words "an authority appointed by the Provincial Government and independent of" be inserted;

(*iii*) after the word "officer" occurring in line 4, the words "or by such other officers" be inserted; and

(*iv*) for the word "him" occurring in line 4, the words "the Provincial Government" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is the amendment of Mr. Birendra Kishore Roy Chowdhury: that in sub-clause (*1*) of clause 75 of the Bill, for the words "the Registrar" occurring in line 3, the words "chief audit officer responsible to the Secretary, Co-operative Department" be substituted.

(The amendment was negatived.)

Rai Sahib JATINDRA MOHAN SEN: Sir, May I have your permission to move amendment No. 409A, because if this amendment is accepted, then I shall move my amendment No. 403 which is consequential to No. 409A.

Mr. PRESIDENT: I cannot accept it without notice.

Rai Sahib JATINDRA MOHAN SEN: May I put it as a short-notice amendment?

Mr. PRESIDENT: You may move it if there is no objection. Is there any objection to the short-notice amendment of Rai Sahib Jatindra Mohan Sen?

Khan Bahadur ATAUR RAHMAN: Yes, Sir, I have objection.

Mr. PRESIDENT: I do not allow it then.

The question before the House is: that clause 75 stand part of the Bill.

(The motion was agreed to.)

Clause 76.

Mr. PRESIDENT: Clause 76 stand part of the Bill.

The question before the House is: that clause 76 stand part of the Bill.

(The motion was agreed to.)

Clause 77.

Mr. PRESIDENT: Clause 77 stand part of the Bill.

Mr. MESBAHUDDIN AHMED: I beg to move that for sub-clause (2) of clause 77 of the Bill, the following be substituted, namely:—

"(2) The statement of accounts they audited, together with the modifications, if any, made therein by the Registrar, shall be final and binding on the co-operative society."

Mr. PRESIDENT: The question before the House is the amendment of Mr. Mesbahuddin Ahmed: that for sub-clause (2) of clause 77 of the Bill, the following be substituted, namely:—

"(2) The statement of accounts they audited, together with the modifications, if any, made therein by the Registrar, shall be final and binding on the co-operative society."

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: Mr. President, Sir, I beg to move that in sub-clause (2) of clause 77 of the Bill, after the word "shall" the words "subject to any explanation accepted by the Registrar under section 79" be inserted.

Sir, clause 79 provides that a co-operative society shall be afforded by the Registrar an opportunity of explaining any defects or irregularities pointed out by the audit officer, and therefore the society shall, within such time and in such manner, as the Registrar may direct, remedy such defects and irregularities and report to the Registrar the action taken by it thereon. Now, Sir, clause 79 would be meaningless

if the opportunity that we have given to the society is not availed of, and if, before any explanation is given, the statement of accounts, as audited by the auditor, is taken to be final. So, my amendment wants to remedy this defect. When an opportunity of giving an explanation is being afforded, we must see that this opportunity is availed of. After the explanation is received, and after the Registrar is satisfied that the objection is valid or invalid, it is then that the report of the auditor should be taken into consideration.

Mr. PRESIDENT: Amendment moved: that in sub-clause (2) of clause 77 of the Bill, after the word "shall" the words "subject to any explanation accepted by the Registrar under section 79" be inserted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am afraid my friend is labouring under some misapprehension. The amendment just now agreed to by the House really meets the point, for if you peruse for a moment the amendment of my friend Mr. Mesbahuddin Ahmed, you will find that there it is provided that when an audited account will come, it will be final and binding on the society only after modifications, if any, are made therein by the Registrar. A modification can only be effected when some of the members take exception to that audit report. It is also designed that the Registrar will give the members a hearing about such things being done before any modification and when that modification is made it is made binding upon the society. So, the question of explanation as suggested by Mr. Sen does really come within the purview of the amendment which has been agreed to by the House. So, I submit that the amendment of Mr. Sen is redundant and I oppose it.

Mr. PRESIDENT: The question before the House is the amendment of Rai Sahib Jatindra Mohan Sen: that in sub-clause (2) of clause 77 of the Bill, after the word "shall" the words "subject to any explanation accepted by the Registrar under section 79" be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 77, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 78.

Mr. PRESIDENT: Clause 78 stand part of the Bill.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. President, Sir, I beg to move that after paragraph (*f*) of clause 78 of the Bill, the following paragraphs be added, namely:—

"(*g*) any interest paid to the financing bank or to any depositor, out of the principal realised from any member;

(*h*) any office-bearer being found guilty of any *benami* transactions or any undue favour to any relative member;

(*i*) verified assets showing clearly what amount of the assets is absolutely safe; and

(*j*) causes of steady deterioration of any society, if so found."

Sir, certain items are mentioned in clause 78 along with which the auditor must submit his statement of accounts to the Registrar, but, I think, the items which I have just proposed are also very necessary. These items should also appear in the text of the Bill itself, because these are the items which are very important. From past experience it has been found that auditors had reported very favourably in regard to certain banks in which defects had been found at the time of inspection. I think, in the interests of the banks, pointed attention of the auditors should be drawn to the proposed items and that they should especially report on these points along with the other points specified in clause 78. For these reasons, I have suggested that this amendment should be made to clause 78 of the Bill, and I hope the House will accept it.

Mr. PRESIDENT: Amendment moved that after paragraph (*f*) of clause 78 of the Bill, the following paragraphs be added, namely:—

"(*g*) any interest paid to the financing bank or to any depositor, out of the principal realised from any member;

(*h*) any office-bearer being found guilty of any *benami* transaction or any undue favour to any relative member;

(*i*) verified assets showing clearly what amount of the assets is absolutely safe; and

(*j*) causes of steady deterioration of any society, if so found."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am in entire agreement with the point of view expressed by my friend the mover of this amendment. Sir, I have only one word of explanation to submit to him so that he may be good enough to see our point of view as well. We do not say that we shall not look into these matters, and in point of fact we shall also keep these things in view. If you will be good enough, Sir, to peruse this clause as it is in the Bill, you will find that in sub-clause (*f*) we have also thought of "any

other matter prescribed"; that is to say, it will be the duty of the audit officer to look into various other matters and the five sub-clauses (*a*), (*b*), (*c*), (*d*) and (*e*) are particular items, which we think ought to be specially mentioned in the Bill itself. Sir, as regards my honourable friend's suggestion (*i*), that is to say, what amount of the assets is absolutely safe, we have also got that in view. For sub-clause (*e*), as we have got in the clause itself, says "any of the assets which appears to him to be bad or doubtful". As regards the other thing, namely, whether any interest paid to the financing bank out of the principal realised and whether any office-bearer has been found guilty of any *benami* transaction, sub-clause (*a*) does really contemplate these things, if specifically mentioned; for it says "every transaction which appears to him to be contrary to law or to the rules or by-laws". I submit, therefore, Sir, that when we have thought of five different items to be mentioned—they are specific difficulties that must be noticed—along with them anything that comes in the way of financial transaction of the society must also be noticed. I can assure my friend that we have to frame rules uder this section and these will be some of the items also along with many other items to be mentioned in the rules, so that the audit officer will have to take note of them and mention these things.

I hope, Sir, that my honourable friend will be good enough to take my assurance and withdraw his amendment.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg leave of the House to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to permit Khan Bahadur Saiyed Muazzamuddin Hosain to withdraw his motion?

Mr. SHRISH CHANDRA CHAKRAVERTI: We object, Sir.

Mr. PRESIDENT: The question before the House is: that after paragraph (*f*) of clause 78 of the Bill, the following paragraphs be added, namely:—

"(*g*) any interest paid to the financing bank or to any depositor, out of the principal realised from any member;

(*h*) any office-bearer being found guilty of any *benami* transaction or any undue favour to any relative member;

(*i*) verified assets showing clearly what amount of the assets is absolutely safe; and

(*j*) causes of steady deterioration of any society, if so found."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 78 stand part of the Bill.

(The motion was agreed to.)

Clause 79.

Mr. PRESIDENT: The question before the House is: that clause 79 stand part of the Bill.

(The motion was agreed to.)

Clause 80.

Mr. PRESIDENT: Clause 80 stand part of the Bill.

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move that clause 80 of the Bill be omitted.

Sir, in this connection I wish to submit to you that this clause is not to be found in the original draft and if it is thought to be a remedy of any disease, then I think the remedy proposed is certainly much worse than the disease, if there be any. Now, Sir, the first paragraph of clause 80 runs thus: "The Provincial Government may constitute an authority to appoint and control in such manner as may be prescribed, the staff required for the supervision of co-operative societies, other than such staff as may be appointed by the Provincial Government for the purposes of such supervision, and such authority shall be composed of such number of persons as may be prescribed."

Now, Sir, the object as we are given to understand from the notes to this clause is "that supervisors who are at present recruited, paid and controlled by the Central Banks independently, should be formed into a common service for all the banks on a provincial basis" and so on. The practice now is that each Central Bank engages its own staff for the supervision of the primary societies and I do not know up till now that any Central Bank has failed to do its duty or that supervisors concerned have done their work so unsatisfactorily as to necessitate framing a clause like this. So far as I know, these supervisors are qualified men and furthermore they are given training at Dum Dum and they are required to pass a very stiff examination. The recruitment of supervisors in each district relieves to a certain extent the unemployment problem and these supervisors, as far as I know, Sir, take a good deal of interest for the improvement of societies. Now, the proposal is to create a central organisation. I really do not know what has been the necessity for the same. May I ask, Sir, why this attempt at centralisation, why the Central Banks are to be deprived of the power of appointment and of taking any disciplinary action against these

supervisors? As a matter of fact, if they are deprived of the power of taking disciplinary action, I do not think these supervisors will be amenable to the jurisdiction of or obey the orders passed by these Central Banks. It may be that it is in the contemplation of the authorities that some sort of control should be transferred to these Central Banks. But as you know full well, dual control is never satisfactory. I am, therefore, opposed to it and I hope, Sir, that this proposal for depriving the Cenral Banks of their power of appointment of these supervisors will not be given effect to.

Furthermore, Sir, I find I am rather supported by Khan Bahadur Saiyed Muazzamuddin Hosain by his amendment which suggests that as a matter of fact the authority should not be the central authority. I am referring to amendment No. 445, where he says that the authority should not be the authority which is contemplated in the section, but he suggests that the authority should be created in every district so that the local men may be able to control these supervisors.

The second paragraph is the proviso. It says "of the persons composing such authority, three-fourths shall be elected by co-operative societies". I find from the Annual Report on the Working of the Co-operative Societies in Bengal up to the end of June, 1938, that there are altogether in Bengal 24,256 societies in all, and the number of members is 868,540 and there are 117 Central Banks. I do not know, Sir, how it will be possible for this huge number of societies and these Central Banks to elect representatives to be on the committee. Furthermore, Sir, I find that in amendment No. 446 Khan Bahadur Ataur Rahman suggests that proviso to sub-clause 80 of the Bill be deleted. It is after all to my mind an absurd proposition to ask so many societies to elect only a few representatives.

Now, so far as the third paragraph of the clause is concerned, I also find that Khan Bahadur Saiyed Muazzamuddin Hosain in amendment No. 447 also supports my suggestion, namely, that sub-clause (*2*) of clause 80 of the Bill be deleted. As a matter of fact, as I submitted to you, Sir, no good will be served by this central organisation. On the other hand, the Central Banks will be deprived of all control, and they will be practically nonentities. In this connection, I would like to draw the attention of the House as well as of you, Sir, and of the Hon'ble Minister to the fact that in the Maclagen Report it is said that "it should be incumbent on the central financing institutions to carry on the duties of supervision, to maintain an efficient staff for the purpose." I really do not know, Sir, what has been the reason for departing from this wholesome practice. I, therefore, submit, Sir, that the House will be pleased and the Hon'ble Minister will be pleased to consider what I have submitted and will not deprive these Central Banks of the power of appointing or taking any disciplinary action against the supervisors.

Mr. PRESIDENT: Amendment moved: that clause 80 of the Bill be omitted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir I think it is necessary to explain the position we take in connection with this amendment. Sir, I have also suggested certain amendments in connection with this clause. Ordinarily, the amendment would seem all right, because it is a known practice that one who pays for the piper should have a right to call for the tune. Accordingly, the Central Banks which will pay for the cost of the supervisors ought to be the appointing authority. That is the ordinary principle. But, Sir, experience has shown that the supervisors appointed by the Central Banks sometimes work so indifferently that they are not practically under the control of anybody. It has, therefore, become absolutely necessary for Government to intervene and to device means so that really good work can be got from these supervisors. Sir, from personal experience—I was the Chairman of a Central Bank—I happened to find some very bad work done by some of the supervisors which should not have been at all pardoned and I was obliged to pass orders for suspension on them. But subsequently some of the directors who were very influential men manœuvered in such a way that I had to withdraw practically my orders of suspension. That shows how the work goes on in the mufassil. Of course, it is all right for the directors of the banks who work honestly and sincerely and strictly according to the rules, but very often they are not so and very often favouritism and other things play a considerable part. So, I think in the interest of the work it is necessary that the department should be given some control over the staff of supervisors. Otherwise, the supervision of the banks will go to dogs, and there will be no supervision at all. For this reason, I think I have to oppose my honourable friend for whom I have great respect and who is a great co-operator, I know. When he will also think of the omissions and commissions of the past, I think he will agree with me that there are banks and banks, and all the directors and chairmen are not of the type we should like to have.

But, Sir, I have one word of explanation to offer as to why I had myself given notice of some amendments in connection with this clause. I had proposed that one such authority should be constituted in each district instead of there being a central authority. My idea in suggesting one authority for each district was that it would be able to control the supervisors better and the cost would be much less. It was with that object in view that I had given notice of my amendment. But now I understand that the cost of having a central body of twelve persons at one place will be far less than the cost of having one authority in every district. Therefore, I will not move my amendment to that effect.

So far as my amendment No. 447 is concerned, there also I had proposed the deletion of sub-clause (*2*) of clause 80, so that societies may not be taxed again to pay the fee to the authority. As the number of members of the central authority will be very small, the cost being distributed among a large number of societies will be negligible, and for that reason I am not going to move my second amendment No. 447.

With these words, Sir, I oppose the amendment.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I also rise to oppose this amendment. The object of the honourable mover of the amendment is certainly very good and his argument in support of the action of the Central Banks is certainly beyond exception; but, as has been just now explained by a very experienced member of this House, in many cases the directors and other persons concerned with the management of these banks show a considerable amount of negligence and slackness; they have shown undue favouritism in many cases; in many cases the faults which come to their notice have never been acted upon by them; and in this way they have gone on mismanaging their banks. In this way, the machinery of the Central Banks has failed, and, therefore, it is felt that some change is necessary. That the machinery of the Central Banks in checking fraud and misappropriation has failed, must be admitted on all hands. Therefore, a new authority should be given a trial. The only thing that can be thought of is that the department should run it, although this very action goes against the principle of co-operation to a certain extent. But unaided and acting independently, co-operation has failed. Some amount of outside help and control has become necessary. At the same time, I hope that this outside authority will be exercised in a manner so as to cause minimum amount of interference except where it is absolutely necessary. With this explanation, Sir, I oppose this amendment, although, as I have already said, there is much to be said in favour of the deletion of the clause on abstract grounds.

Khan Bahadur M. SHAMSUZZOHA: Mr. President, Sir, I rise to oppose this amendment for the deletion of clause 80. The ground which has prompted Government to insert this clause is the realisation of the urgent need for introducing a machinery for supervision in order to ensure the success of the movement. As it obtains now, the supervisors are appointed by the Central Banks and they are their paid servants. In order that there may be a coherent policy, that there may be a system of proper supervision of banks, it is only desirable that there should be a central authority which will appoint and control the supervising staff of all the Central Banks, because by doing so there will be created a spirit amongst these supervisors who form an important link in the administration of these societies, and this will go a long

way towards developing the societies. But in the appointment of these supervisors the Central Banks concerned should also have some hand because they will have to contribute for their pay and allowances. Therefore, Government have thought it wise to constitute an authority which will be formed by three-fourths of the representatives of the Central Banks, one-fourth being nominated by Government. By doing this both the points will be met and, I think, it would be in the best interests of the co-operative movement that this authority should be constituted. Therefore, I hope that my friend who is a great co-operator and who has spent considerable part of his life in this movement will please see the underlying object of Government in inserting this clause.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am extremely sorry that the Chairman of the Midnapore Central Bank should have thought fit to suggest seriously that this clause should be deleted. I expected that one who is in charge of such a big Central Bank of the province would welcome the provision contained in this clause. My friend's apprehension is that if there is one agency of the nature thought of in this clause, it would be difficult to tackle the unemployment problem arising in any particular part of the province. In the second place, he feels that it will be difficult for the Central Bank to take disciplinary action against the supervisors. Thirdly, he thinks that dual control is never satisfactory; and fourthly and lastly, he apprehends that it will be difficult to have an election of the society conducted in order to have such a body as thought of in this clause.

Sir, in reply to all these points my humble submission to the House is this: if it is a question of taking disciplinary action, a central body of this nature will be able to do so at the instance and on the advice of the Central Bank. We have thought of this provision for the reason, as has been suggested by my honourable friend Khan Bahadur Muazzamuddin Hosain, that experience shows that a central body of this nature is necessary to guide and control the activities of that body of men known as supervisors. I have known of instances where supervisors exercised an unholy control by which they were able to dictate terms to the Directors of the Central Bank. On the other hand, I have also known of instances where an unfortunate supervisor who tried to discharge his duties honestly was not liked by some of the Directors of the Central Bank. To remove these two sorts of diagonally opposed views, the only solution we have been able to think of is to have a central controlling body which will control the services of these officers and guide them along proper lines. If it so happens that a supervisor either intentionally or unintentionally does some wrong or annoys his Directors, he will be saved from imminent dismissal and may be tried elsewhere. We have known of cases where the supervisor was dismissed summarily; as a matter of fact, there is no security of the

services of the supervisors at present. So, we feel that if there is a central body of this nature it will be able to take a sympathetic view in such circumstances and examine the position ensuring some security of service, so far as these supervisors are concerned.

The supervisors in a conference have also passed a resolution requesting the Government to take action in this respect. So far as my information goes, the Central Banks also in a conference have accepted the view that a central body of this nature is necessary. This will solve to a certain extent the unemployment problem. So, I submit there need not be any apprehension on the part of my honourable friend, the mover of the amendment. Whether it is Midnapore or anywhere else, we shall have the same number of supervisors appointed. If it is a question of transferring one supervisor from one district to another, that will not affect anybody. The control exercised by this body will be certainly at the instance and on the advice of the Central Body for they will be a body before whom the facts will first appear and on consideration of these facts they will advise proper action. So far as the defects thought of by my honourable friend are concerned, I can only suggest this to him for consideration that we have got members elected for bodies like the Bengal Co-operative Alliance from a large number of village societies and banks including also Central Bank Directors. We have also got electoral colleges which make preliminary elections of members. The Bill itself, by proviso to clause 20, provides for an election of delegates for coming and meeting at a joint conference for the purpose of vesting final authority in the central body.

Sir, if the House has been good enough to agree, on consideration that there are societies whose memberships are very large and perhaps whose members may be residing at different places in the province, and if it is possible for having an election of that sort, why it is not possible to have an election of persons of this province to constitute a central body? I, therefore, submit that the apprehension of my honourable friend is not well-founded and the answers given by three of my friends ought to satisfy him. So, I would respectfully request him to withdraw his amendment; otherwise, I have to oppose his amendment.

Mr. PRESIDENT: The question before the House is that clause 80 be omitted.

(The amendment was negatived.)

Khan Bahadur ATAUR RAHMAN: Mr. President, Sir, if you permit me and the House also permits, I should like to move a short notice amendment instead of amendment No. 448 standing in my name. I would propose that after the word "persons" in the last line of sub-clause (*1*) of clause 80, the words "and for such other functions" be inserted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, with a view to better drafting, I would suggest to my honourable friend to put in the expression "and shall perform such other function", if you have no objection.

Khan Bahadur ATAUR RAHMAN: I agree to the amendment proposed by the Hon'ble Minister.

Mr. PRESIDENT: I think there is no objection to this short-notice amendment being moved.

(No objection was raised.)

Khan Bahadur ATAUR RAHMAN: Sir, I beg to move that after the word "persons" in line 7 of sub-clause (*1*) of clause 80, the following words be added, namely:—"and shall perform such other functions".

Sir, in moving this amendment I beg to make the following statement. I proposed in my original amendment No. 448 that an Advisory Committee should be appointed to help or advise the Registrar in matters of policy and other things. As there is already an authority constituted, three-fourths of whom are elected, for advising the Registrar, I have withdrawn my other amendment and I propose this so that the Government may prescribe rules defining that advising the Registrar will be one of the functions which they will do. Of course, their advice will not be binding on the Registrar, but they will be a consultative body from whom the Registrar will get immense help in the administration of the societies. I hope my amendment will be accepted.

Mr. PRESIDENT: Amendment moved that after the word "persons" in line 7 of sub-clause (*1*) of clause 80, the following words be added, namely:—

"and shall perform such other functions".

Mr. LALIT CHANDRA DAS: Sir, may I with your permission and the permission of the House put in my amendment now?

I beg to move that the words "advise the Registrar" be added after the word "functions." This will read "and shall perform such other functions including advice to the Registrar."

Mr. PRESIDENT: Is there any objection to this amendment to the amendment?

Mr. J. B. ROSS: On a point of information, Sir. There have been amendments giving effect to the proposed amendment of my friend Mr. Lalit Chandra Das which have already been turned down. Can it be brought up again in this manner?

Mr. PRESIDENT: Is it the same thing?

Mr. LALIT CHANDRA DAS: It is not exactly the same thing, Sir. Previously, it was an advisory body but now my amendment says that amongst other functions he will have this advice.

Mr. J. B. ROSS: Mr. President, Sir, I beg to refer you to amendments Nos. 64-67.

Mr. PRESIDENT: This amendment to the amendment will not be in order. I rule it out.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, so far as the amendment of my honourable friend Khan Bahadur Ataur Rahman is concerned, I am prepared to agree and I can only assure him that at the time of making the rules all the different suggestions including the one made by him will certainly be taken into account.

Mr. PRESIDENT: The question before the House is: that after the word "persons" in line 7 of sub-clause (*1*) of clause 80, the following words be added:—

"and shall perform such other functions."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 80, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 81.

Mr. PRESIDENT: The question before the House is: that clause 81 stand part of the Bill.

(The motion was agreed to.)

Clause 82.

Mr. PRESIDENT: The question before the House is: that clause 82 stand part of the Bill.

(The motion was agreed to.)

Clause 83.

Mr. PRESIDENT: Clause 83 stand part of the Bill.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in sub-clause (*1*) of clause 83 of the Bill, the words "at any time of his own motion or at the request of the District Magistrate" appearing in lines 1 and 2 be omitted.

Sir, clause 83(*1*) reads—"The Registrar may, at any time, of his own motion or at the request of the District Magistrate, hold, by himself or by a person authorised by him by order in writing, an inquiry into the constitution, working and financial condition of a co-operative society.".

In my amendment, I have suggested that the words "at any time of his own motion or at the request of the District Magistrate" be omitted. I do not suggest that the Registrar should not have the power of holding an enquiry into the working and financial condition of a co-operative society. That power of Registrar stands and will remain even without the words "at any time of his own motion". My amendment relates to the enquiry proposed to be made at the request of the District Magistrate. Sir, how can a District Magistrate come in in connection with an enquiry into the co-operative societies under clause 83, I fail to understand. In order to understand my objection, I would refer you to clauses 81 and 82 just now passed by this House. Clause 81 of the Bill refers to inspection. In this clause we find that every co-operative society shall be liable at any time to inspection by the Registrar or by the financing banks, and, Sir, it has been detailed by whom that inspection can be carried on.

Then, Sir, I come to clause 82. In this clause also we find provisions made with respect to inspection—of books of an indebted co-operative society and other things. Nowhere we find scope for the District Magistrate to come in. The District Magistrate has not been given any power in any of these two clauses or anywhere in this Bill for the purpose of inspecting any of the co-operative societies or of controlling it in any way. How in this picture can the District Magistrate come in for the purpose of the enquiry unless it be to bring into play the bureaucratic authority into this democratic institution? I object, Sir, to this expression and with these words, I move my amendment that the words "at any time of his own motion or at the request of the District Magistrate" be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 83 of the Bill, the words "at any time of his own motion or at the request of the District Magistrate" appearing in lines 1 and 2 be omitted.

The Council stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 10th September, 1940.

Members absent.

The following members were absent from the meeting held on the 9th September, 1940:—

(1) Mr. Kader Baksh.

(2) Mr. Narendra Chandra Datta.

(3) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(4) Maulana Muhammad Akram Khan.

(5) Mr. W. B. G. Laidlaw.

(6) Sir, T. Lamb.

(7) Dr. Radha Kumud Mookerji.

(8) Khan Bahadur Mukhlesur Rahman.

(9) Mr. Nagendra Narayan Ray.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 10th September, 1940, at 2-15 p.m. being the twenty-seventh day of the Second Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Arrest of Srijut Subhas Chandra Bose.

106. Mr. RANAJIT PAL CHOUDHURY (on behalf of Mr. Srish Chandra Chakraverti): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether Srijut Subhas Chandra Bose was arrested on the 2nd July, 1940;

(*b*) if so, what are the grounds for his arrest;

(*c*) if it is a fact that he was arrested because he wanted to launch a movement to remove the Holwell Monument; and

(*d*) if it is a fact that the movement is the result of joint deliberation of both Mussalmans and Hindus who strongly resent the existence of such a monument, which casts false aspersions on the character of a nobleman, the last and unfortunate Nawab of Bengal; and whether Srijut Subhas Chandra Bose will be released after a fortnight as contemplated under rule 129 of the Defence of India Rules?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir NAZIMUDDIN): (*a*) Yes.

(*b*) and (*c*) For threatening to commit a prejudicial act under the Defence of India Rules.

(*d*) No.

Duties of jail clerks.

107. Mr. MOAZZEMALI CHOUDHURY: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that the jail clerks are to perform executive duties? If so,

will the Hon'ble Minister be pleased to state the reasons for not adopting the designation of assistant jailors in place of the existing designation of jail clerks?

(*b*) Is it a fact that the jail clerks are to attend to their office duties in odd hours from early morning till late hours at night and are Government aware that most of them are to come from long distances? If so, do Government propose to provide them with free quarters in jail compounds? If not, do Government propose to fix the time of duties from 10 a.m. to 5 p.m. like all other Government offices?

(*c*) Is it a fact that the jail clerks are deprived of enjoying Sundays and holidays? Are the Government aware that they are to do executive and clerical duties like that of the jailors, the deputy jailors and other jail officers? If so, will Government be pleased to state the reasons why the said clerks are not provided with quarters like all other jail officers enjoying that privilege?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Some of the duties of jail clerks are of an executive nature. The question of designation is under consideration.

(*b*) Hours of duty of jail clerks are from 7 a.m. to 12 noon and from 3 p.m. to 5 p.m. in district jails and from 6-30 a.m. to noon and from 4 p.m. to 7 p.m. in Central Jails but these hours may vary in individual cases. The question of providing quarters for jail clerks is under consideration. Government do not propose to fix the time of duty from 10 a.m. to 5 p.m.

(*c*) In Central Jails and district jails with more than one clerk, the clerks are usually allowed to avail themselves of the Pujah and Christmas holidays in two batches. They are also allowed to take Sundays off in special cases. The question of giving one full day's or two half-days' rest to the jail staff during each fortnight is under consideration.

The honourable member is referred to the answer to parts (*a*) and (*b*).

Duties of the District Agricultural Officers of Murshidabad, Birbhum and Burdwan.

108. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state if there is any District Agricultural Officer in the districts of Murshidabad, Birbhum and Burdwan?

(*b*) If the reply to clause (*a*) be in the affirmative, will the Hon'ble Minister kindly state what are his duties?

(*c*) Is he to go to the interior and help the cultivators by advising them?

(*d*) How many days did each of these officers tour during the financial year 1939-40?

(*e*) What villages of Kandi subdivision in Murshidabad and Rampurhat subdivision of Birbhum and Katwa subdivision of Burdwan were visited by the District Agricultural Officers of Murshidabad, Birbhum and Burdwan, respectively?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) There is a District Agricultural Officer for each of the three districts.

(*b*) The main duties of a District Agricultural Officer are to inspect the works of the Agricultural Demonstrators including the work of the Demonstration Centres and Union Board Farms (henceforth to be called Thana Farms), to give necessary instructions to the cultivators whenever asked, to collect statistical information regarding agricultural crops, to conduct crop-cutting experiments, to render help in his sphere to connected departments such as Rural Reconstruction, Marketing and Live-Stock Departments. He is also in charge of the District Agricultural Farm.

(*c*) Yes. But his tour in the interior is restricted by the amount of travelling allowance available for him and the time occupied by his work at the District and Thana Farms and the Demonstration Centres.

(*d*) The District Agricultural Officer, Murshidabad, toured 110 days, the District Agricultural Officer, Birbhum, 116 days and the District Agricultural Officer, Burdwan, 83 days.

(*e*) A statement is laid on the table.

Statement referred to in the reply to part (e) of question No. 108.

NAMES OF VILLAGES VISITED IN SUBDIVISIONS OF KATWA, RAMPURHAT AND KANDI BY THE DISTRICT AGRICULTURAL OFFICERS CONCERNED.

Subdivision.	Village.
Katwa (Burdwan) ..	Majigram.
	Ponsla.
	Sresura (twice).
	Begunkola (three times).
	Notungram.
	Bansar.
	Ghoshhat (four times).
	Atuhat.
	Keshia.

Subdivision.	Village.
Rampurhat (Birbhum)	Dakhalbati (seven times).
	Narayanpur.
	Kaluha (eight times).
	Joykrishtapur (ten times).
	Amdol.
	Murarai.
	Bhimpur.
	Kalahapur.
	Chatra.
	Habispur (twice).
	Dunigram.
	Margram (five times).
	Nalhati.
	Rajgaon.
	Sashtitola.
	Gorsha.
	Narayanghati.
	Mayureswar.
Kandi (Murshidabad) ..	Nabagram.
	Maharul.
	Gokarana.
	Kandi.
	Rashora.
	Khorsa.
	Bale.
	Jemo.
	Purandarpur.
	Hijal.
	Tenya.
	Baidyapur.
	Shapur.
	Mahalandi.
	Malihati.
	Salar
	Simulia.
	Powar.
	Mansurpur.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state how many union board demonstration centres there are in the district of Murshidabad?

The Hon'ble Mr. TAMIZUDDIN KHAN: I want notice.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if it is not one of the duties of the District Agricultural Officers to encourage the use of improved seeds?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes, that is one of his duties.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if it is not the duty of the district Agricultural Officer to find out what special crops are to be grown in a particular area?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes, I think so. I have described here only the main duties, but he has other duties also.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state what market facilities have been rendered by the District Agricultural Officer?

The Hon'ble Mr. TAMIZUDDIN KHAN: He does not render any marketing facilities himself, but he has to help officers of other departments in that connection and that is why the marketing department has been mentioned.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if he is aware that 37¼ lakhs of acres of culturable land are lying fallow; if so, will he please let us know if the Agricultural Officers enquired what crops can be grown in that land?

The Hon'ble Mr. TAMIZUDDIN KHAN: Does the honourable member refer to lands lying fallow in the district of Murshidabad or in the whole of Bengal?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: In the whole of Bengal.

The Hon'ble Mr. TAMIZUDDIN KHAN: The District Agricultural Officers of these three districts have got nothing to do with unculturable lands in the other districts of Bengal.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state if he is aware that a large area in the district of Murshidabad is lying fallow this year on account of want of rain: has any crop been suggested to be grown on those lands by the District Agricultural Officer?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, this question has very little connection with the main question and it is very difficult for me to answer it. I should ask for notice.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Will the Hon'ble Minister be pleased to state if there is any local scheme under which they work?

The Hon'ble Mr. TAMIZUDDIN KHAN: I want notice.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Is there any local advisory committee under which they work?

The Hon'ble Mr. TAMIZUDDIN KHAN: I do not think so.

Assent to Bills by Governor.

Mr. PRESIDENT: I have to inform the honourable members that the following Bills which were passed by both Chambers of the Bengal Legislature have been assented to by His Excellency the Governor under the provisions of section 75 of the Government of India Act, 1935, namely:—

(1) The Bengal Revenues (Charged Expenditure) Bill, 1940; and

(2) The Bengal Jute Regulation (Amendment) Bill, 1940.

The Bengal Co-operative Societies Bill, 1940.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Co-operative Societies Bill, 1940.

When we rose yesterday, the House was considering the following amendment of Mr. Lalit Chandra Das, viz., "That in sub-clause (*1*) of clause 83 of the Bill, the words 'at any time of his own motion or at the request of the District Magistrate' appearing in lines 1 and 2, be omitted."

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to oppose this amendment and I shall submit my reasons therefor. My learned friend in moving his amendment has referred to the two previous clauses. He has drawn the attention of the House to the fact that in the two previous clauses the word "inspection" has been used, while in this clause the word "enquiry" has been used. He apparently thinks that the word "enquiry" here is a mistake because in the previous clauses the word "inspection" has been used. Sir, I agree with my friend that the words "inspection" and "enquiry" are two different things. But the necessity for using the word "enquiry" in the present clause is

obvious. The word "inspection" implies a very normal and ordinary examination: it is just to look into the state of things in the usual routine manner. But the word "enquiry" means much more formal and closer investigation. My learned friend objects to the Registrar doing it at the request of the District Magistrate and is surprised that the District Magistrate should be brought in. I submit, Sir, that the name of the District Magistrate has been brought in this clause as he deals with criminal proceedings. The Collector discharges only revenue functions; but the expression "District Magistrate" is used in the Criminal Procedure Code. So, his name here suggests some action having a criminal implication. Whenever the District Magistrate gets information that some criminal acts are going on or some criminal acts have taken place, the District Magistrate may move the Registrar. The Registrar has been given the right to make enquiry and the District Magistrate has been given right to move the Registrar for the enquiry. I do not see any harm in this. The Registrar's right of enquiry is there clear and absolute and my friend has no grievance on that score. The fact that the District Magistrate has been given right to move the Registrar or even to suggest a remedy does not at all affect any legal principle. I believe that whenever the District Magistrate thinks or has reason to believe that criminal proceedings are necessary, he has ample power under the Code of Criminal Procedure to act in that direction. But the clause supplies a milder remedy instead of a resort to criminal proceedings at once. So, a milder method of interference has been provided in this clause. The Registrar will ultimately decide the matter. The District Magistrate has been given the power only to move the Registrar. In these circumstances, the clause should stand and the amendment is not necessary.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have nothing further to add to what my friend Khan Bahadur Naziruddin Ahmad has said in reply to the speech of the mover of the amendment Mr. Lalit Chandra Das. My friend Mr. Das, if I may repeat, used an expression that there is no necessity to have a bureaucratic epithet in this Bill. I do not think if it is necessary for me to give any reply to his epithet. We know, Sir, that the District Magistrate is still the administrative head of the district and if in the course of his ordinary inspection when he is on tour anything of this character, as is explained by my friend Khan Bahadur Naziruddin Ahmad, is brought to his notice, he is only to ask the Registrar to look into the question. So, there is this permissive expression in sub-clause (*1*) "may look" into the matter, when the District Magistrate suggests something of that nature to him. As regards the Registrar, I do not think my friend Mr. Das seriously suggests that he should have no power to direct an enquiry. I do not think the question does arise at all. So, I oppose the amendment.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Lalit Chandra Das: that in sub-clause (*1*) of clause 83 of the Bill, the words "at any time of his own motion or at the request of the District Magistrate" appearing in lines 1 and 2 be omitted.

(The amendment was negatived.)

Rai Bahadur MANMATHA NATH BOSE: I beg to move that in sub-clause (*2*) of clause 83 of the Bill for the word "shall" in line 1, the words "may also" be substituted.

Sir, this is a formal amendment. As a matter of fact, the matter is very simple and I have suggested this amendment in order to make these two sub-clauses conjunctive. I think that the word "may" is the proper word instead of "shall".

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 83 of the Bill the word "shall" in line 1, the words "may also" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I thought that my honourable friend would see the distinction between the two sub-clauses. While under sub-clause (*1*) it is discretionary, the circumstances mentioned in sub-clause (*2*) would make it obligatory upon the Registrar to make an enquiry without his being so requested. So, I hope it is clear to my honourable friend that in the first clause it is discretionary and in the second there will be no discretionary power left to the Registrar. It is, therefore, not necessary to have this amendment and I oppose it.

The question before the House is the amendment of Rai Bahadur Manmatha Nath Bose: that in sub-clause (*2*) of clause 83 of the Bill for the word "shall" in line 1, the words "may also" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 83 stand part of the Bill.

(The motion was agreed to.)

Clause 84.

Mr. PRESIDENT: Clause 84 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move by way of short notice amendment one formal amendment—467 A in the late list—that in clause 84 of the Bill, in sub-clause (*1*) for the word "enquiry" wherever it occurs, the word "inquiry" be substituted.

I submit, Sir, both these spellings are correct but the word "inquiry" has been used throughout the Bill and specially in the previous clause. So, to bring the spelling into same line, I have suggested this. It is a most inoffensive amendment and I think it will not be objected to.

Mr. PRESIDENT: The question before the House is: that in clause 84 of the Bill, in sub-clause (*1*) for the word "enquiry" wherever it occurs, the word "inquiry" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 84 of the Bill, in sub-clause (*2*) the words "of this section" occurring at the end, be omitted.

Sir, the reason for this amendment is the provision in the Bengal General Clauses Act. The text says "this sub-section of this section", but according to the definition of the word "sub-section" in the Bengal General Clauses Act, whenever the word "sub-section" is used it always means sub-section of this section. So, these words are redundant and by virtue of the General Clauses Act they are not necessary. They will always be implied. In these circumstances, I have suggested the deletion of these unnecessary words.

Mr. PRESIDENT: The question before the House is: that in clause 84 of the Bill, in sub-clause (*2*), the words "of this section" occurring at the end, be omitted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 84, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 85.

Mr. PRESIDENT: The question before the House is: that clause 85 stand part of the Bill.

(The motion was agreed to.)

Clause 86.

Mr. PRESIDENT: Clause 86 stand part of the Bill.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that for paragraphs (*b*) and (*c*) of sub-clause (*1*) of clause 86 of the Bill, the following be substituted, namely:—

"(*b*) refer it for disposal to a Board of arbitrators to be appointed by the Provincial Government."

Sir, clause 85 provides that certain disputes mentioned therein may be referred to the Registrar for decision, and clause 86 provides three alternatives, namely, (*1*) that such decision may be made by the Registrar himself; (*2*) that he may transfer it for disposal to any person authorised by the Provincial Government to exercise the powers of the Registrar in this behalf; or (*3*) that he may refer it for disposal to one or more arbitrators to be appointed by the Registrar. Now, Sir, my amendment seeks to do away with the second and third alternatives and substitute for them one alternative only, namely, that if the Registrar does not choose to decide the disputes himself, the decision could be made by a board of arbitrators appointed by the Provincial Government. My amendment is that there should not be two alternatives. If the Registrar thinks that he should decide the dispute, he should decide it himself; but if he cannot decide it himself, there should be only one authority for the decision of that dispute, namely, a board of arbitrators to be appointed by the Provincial Government. There is no point, Sir, in one authority being appointed by the Provincial Government and another authority by the Registrar himself. So, I do not see any necessity of the two alternatives. They will not add to the merit of the decision; on the contrary, there will be comments as to why the first alternative rather than the second or *vice-versa* was not adopted. We know, Sir, as a matter of fact, that where two or more authorities or persons are equally competent to decide one matter, the parties take the chance of bringing the matter before one authority which they think will be more sympathetic to their interest. So, I do not see why there should be two alternative authorities when one alternative authority would be quite sufficient to decide the matter. We do not know, Sir, what differentiation the Registrar will make in appointing one authority in place of the other. My amendment is that there should not be two alternative authorities, but there should be only one alternative authority and that authority should be a board appointed by the Provincial Government. My amendment does not make a new departure because we find that as a matter of fact the Hon'ble Minister has provided that at least one authority should be appointed by the Provincial Government. So, by my amendment I only want to limit the appointment to that authority only and not to the Registrar. If the Registrar cannot decide it himself, there is no point in his appointing another person or persons for the purpose of settling or deciding that dispute. There would be a complication and in that view in order not

only to simplify the procedure but to make the decision acceptable to the parties, I would suggest that there should be only one authority and that authority should be a board appointed by the Provincial Government.

With these words, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that for paragraphs (*b*) and (*c*) of sub-clause (*1*) of clause 86 of the Bill, the following be substituted, namely:—

"(*b*) refer it for disposal to a Board of arbitrators to be appointed by the Provincial Government."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am extremely sorry that my honourable friend should have this misgiving in his mind. For, he will be pleased to find, if he refers to clause 9 which has been agreed to by the House, that it says that the Provincial Government may appoint a person to assist the Registrar. When we talk of (*b*), we think of a class of officers of that nature to be appointed by the Provincial Government to assist the Registrar. Now, Sir, my honourable friend has got no grievance so far as (*c*) is concerned, that is to say, that disputes of this nature may be referred to the Board of arbitrators but not to any person other than the Registrar himself. But, Sir, if he be good enough again to refer to clause 85 which is mentioned in clause 86, he will find that it speaks of a dispute touching the business of a co-operative society other than a dispute regarding disciplinary action and so on and so forth. Now, Sir, when we talk of a dispute being decided by the Registrar or by a Board of arbitrators to be appointed by him, we talk of disputes that may arise in the central financing banks; but when the dispute arises in a village society, it is not expected that the Registrar himself or a Board of arbitrators to be appointed by the Provincial Government should go into that question. It is just from that point of view that we have made this provision in sub-clause (*b*) that where dispute arises amongst the members in a village society, there must be a person who is appointed by the Provincial Government, an officer to assist the Registrar, who should have the authority to go into that dispute. I do not think, Sir, there need be any misapprehension and I oppose this amendment.

Mr. PRESIDENT: The question before the House is: that for paragraphs (*b*) and (*c*) of sub-clause (*1*) of clause 86 of the Bill, the following be substituted, namely:—

"(*b*) refer it for disposal to a Board of arbitrators to be appointed by the Provincial Government."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 86 stand part of the Bill.

(The motion was agreed to.)

Clause 87.

Mr. PRESIDENT: The question before the House is: that clause 87 stand part of the Bill.

(The motion was agreed to.)

Clause 88.

Mr. PRESIDENT: Clause 88 stand part of the Bill.

Rai Sahib JATINDRA MOHAN SEN: Sir, I may be permitted to take up amendments Nos. 489, 496 and 511, because they relate to the same thing for the substitution of the words "District Judge" in place of the word "Registrar".

Mr. PRESIDENT: They relate to the next clauses. Those clauses are not before the House.

Rai Sahib JATINDRA MOHAN SEN: Then, Sir, I would confine myself only to amendment No. 480.

I move that in clause 88 of the Bill, for the word "Registrar" wherever it occurs, the words "District Judge" be substituted.

Sir, this chapter X relates to the question of winding up and dissolution of co-operative societies and this clause 88 is the first clause in that chapter. Now, Sir, by clause 88 the Registrar has been made the sole authority to decide when and what society should be wound up. In all legislative enactments, so far as I am aware, this jurisdiction has been vested either in the District Judge or in the High Court. The winding up and dissolution of societies is a quasi-judicial act and all decisions relating thereto should, in my opinion, therefore, be decided by the District Judge. This Act is mainly an administrative Act and no harm will be done to the Registrar in his prestige and power if the District Judge is vested with the authority to act in this behalf.

With these words, Sir, I beg to move my amendment.

Mr. PRESIDENT: Amendment moved: that in clause 88 of the Bill, for the word "Registrar" wherever it occurs, the words "District Judge" be substituted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, with regard to this amendment I may say that the word "Registrar" occurs only once in the clause and it is confusing to say in the amendment—"Registrar wherever it occurs". These words are redundant. My learned friend would like to substitute the words "District Judge" for the word "Registrar". That is, in deciding small and petty matters relating to the administration of the co-operative societies, he wants that the District Judge should sit in judgment. I may say, Sir, that that will involve plaints, written statements, summoning of witnesses, hearing arguments on law and facts and various other things. It will be costly, cumbrous and highly inconvenient. On the other hand, if the matter is decided by the Registrar, it will be done on the spot in a cheap and expeditious manner.

The problems that will call for solution are political, administrative and economic and not judicial. The District Judge is not supposed to take part in politics. His judicial experience will not help him in deciding problems relating to the management of co-operative societies.

The proceedings before the District Judge will be cumbrous, dilatory and expensive. It will involve the department and the parties in numerous litigations. Besides, we must beware of the danger of dragging our District Judges into the arena of politics. It will benefit none except lovers of litigation. I, therefore, oppose the amendment as being wholly unsuited to solution of the problem.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am extremely sorry I have to differ from what Rai Sahib Jatindra Mohan Sen has suggested in his amendment. I do not understand how we can have the District Judge brought in in clause 88. If you peruse this clause, you will find that the words "after an inspection has been made under section, 81, 82 or 83" then action can be taken under section 88. If you peruse the rest of the clause, no doubt will remain in your mind that in such circumstances it is difficult to bring in the District Judge. It is with regard to the internal affairs of the society, which can only be brought to the notice of the Registrar after an enquiry has been made, that action is contemplated in this section. I submit, therefore, that although I have the highest respect for a District Judge so far as judicial functions are concerned, I do not see how he can come in under this clause. So, I oppose the amendment.

Mr. PRESIDENT: The question before the House is the amendment of Rai Sahib Jatindra Mohan Sen: that in clause 88 of the Bill, for the word "Registrar" wherever it occurs, the words "District Judge" be substituted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 88(*3*)(*a*) of the Bill, for the figures "128", the figures "133" be substituted.

Sir, I believe that the number of this clause was 128 in the other House. Since then they have been re-numbered and according to the re-numbering it is now 133. So, this correction is necessary and it is a routine matter.

Mr. PRESIDENT: The question before the House is the amendment of Khan Bahadur Naziruddin Ahmad: that in clause 88(*3*)(*a*) of the Bill, for the figures "128", the figures "133" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 88 of the Bill, in sub-clause (*3*)(*a*) for the words "preference of" in line 2, the word "preferring" be substituted; and the word "of" occurring for the second time, in line 2, be omitted.

Sir, the Bill clause refers to preferring of an appeal. The expression used here is "preference of an appeal"; but I believe "preferring of an appeal" is a better expression and is an improvement in the drafting of the provision.

Mr. PRESIDENT: The question before the House is the amendment of Khan Bahadur Naziruddin Ahmad: that in clause 88 of the Bill, in sub-clause (*3*)(*a*) for the words "preference of" in line 2, the word "preferring" be substituted; and the word "of" occurring for the second time in line 2, be omitted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 88, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 89.

Mr. PRESIDENT: Clause 89 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 89 of the Bill, for the figures "84", the figures "88" be substituted.

Sir, I have already explained the reason for this provision in connection with a previous amendment.

Mr. PRESIDENT: The question before the House is the amendment of Khan Bahadur Naziruddin Ahmed: that in clause 89 of the Bill for the figures "84" the figures "88" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 89, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 90.

Mr. PRESIDENT: Clause 90 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 90(*1*) of the Bill, in line 2, for the figures "84", the figures "88" be substituted.

The reason for moving this amendment is obvious, as I have stated in a previous similar amendment.

Mr. PRESIDENT: The question before the House is the amendment of Khan Bahadur Naziruddin Ahmad: that in clause 90(*1*) of the Bill, in line 2, for the figures "84", the figures "88" be substituted.

(The amendment was agreed to.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to move that in paragraph (*i*) of sub-clause (*2*) of clause 90 of the Bill, after the word "society" occurring at the end, the following be added, namely:—

", no part of the surplus being spent on any work outside the jurisdiction of the liquidated society."

Sir, I consider this very necessary from the point of view of equity. This reserve fund is created generally from the money—hard-earned money—of the agriculturists and if a portion of this is taken away and spent elsewhere, it will not be just and equitable towards the members of the liquidated society. I think the money which has been realised from a particular society should be spent in the locality of that society in works of public utility. Sir, with this end in view, I have moved this amendment.

Mr. PRESIDENT: Amendment moved: that in paragraph (*i*) of sub-clause (*2*) of clause 90 of the Bill, after the word "society" occurring at the end, the following be added, namely:—

", no part of the surplus being spent on any work outside the jurisdiction of the liquidated society".

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am entirely at one with the point of view suggested by my friend Khan Bahadur Saiyed Muazzamuddin Hosain and I would have been happy if I could have accepted this amendment. But our difficulty is that we do not have territorial jurisdiction so far as co-operative societies are concerned, and although I am not in a position to accept the amendment as worded, I can assure the honourable member that the money will be spent for the benefit of the locality from where it is raised. We shall have to frame rules under the Act and this point will be mentioned definitely in the rule. So, I submit that there need be no apprehension on this account and I hope that on this assurance of mine my honourable friend will see his way to withdraw his amendment.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, in view of the assurance given by the Hon'ble Minister, I beg leave of the House to withdraw the amendment.

Mr. PRESIDENT: Is it the pleasure of the House to grant leave to the Hon'ble Member to withdraw the amendment?

(The amendment was then, by leave of the House, withdrawn.)

Mr. PRESIDENT: The question before the House is: that clause 90, as amended, stand part of the Bill.

(The amendment was agreed to.)

Mr. LALIT CHANDRA DAS: I beg to move that after clause 90 of the Bill, the following new clause be inserted, namely:—

"90A. (*1*) Where in the course of winding up of a co-operative society, it appears that the liquidator has misapplied or retained or become liable or accountable for any money or property of the co-operative society or been guilty of any misfeasance or breach of trust in relation to the society, the Registrar shall on the application of the person aggrieved refer the matter to the Court in whose jurisdiction a suit for liquidation would lie which shall examine into the conduct of the liquidator and pass such order as the court thinks fit.

(*2*) This section will apply notwithstanding that the offence is one for which the offender may be criminally liable."

Sir, the powers of a liquidator have been detailed in clause 90. In fact, the liquidator shall have power to take immediate possession of all assets, effects and actionable claims of the society or to which the society is entitled and of all books, records, etc. To these powers

we do not object. But in the course of his duties as a liquidator it is quite possible that the assets of the co-operative society may be misapplied and even misappropriated and then in the course of instituting or defending suits, compromising or bringing about an agreement between the two parties, the liquidator may do things which will not be worthy of the position that he holds. The suggestion that has been made in my amendment is that certain penalty should attach if the liquidator is found wanting in his duties or doing things which he should not have done. To this I think the Hon'ble Minister will have no objection, because the liquidator can be hauled up for action only in cases where it will be found that he has misapplied or retained or become liable or accountable for any money or property of the society or been guilty of any misfeasance or breach of trust in relation to the society of which he is in charge. Then again, Sir, all that is stated in this amendment is that the person aggrieved will apply to the Registrar and the Registrar will refer the matter to the Court in whose jurisdiction a suit for liquidation would lie. I think, Sir, it is a fair proposition and hope that the Hon'ble Minister will accept it.

Mr. PRESIDENT: Amendment moved: that after clause 90 of the Bill, the following new clause be inserted, namely:—

"90A.—(*1*) Where in the course of winding up of a co-operative society, it appears that the liquidator has misapplied or retained or become liable or accountable for any money or property of the co-operative society or been guilty of any misfeasance or breach of trust in relation to the society, the Registrar shall on the application of the person aggrieved refer the matter to the Court in whose jurisdiction a suit for liquidation would lie which shall examine into the conduct of the liquidator and pass such order as the Court thinks fit.

(*2*) This section will apply notwithstanding that the offence is one for which the offender may be criminally liable."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am extremely sorry to have to observe that my honourable friend Mr. Das is labouring under a misapprehension for sub-clause (*2*) to which he refers is enough to indicate that there will be nothing to prevent a court from taking action against a liquidator if he commits an offence of that nature. But even apart from that point of view, a liquidator will have to be appointed under certain conditions. Clause 90 which has just now been agreed to by the House makes it clear that when he is so appointed he will be under the direction of the Registrar. If he is an officer, his security is his service: and this security of his would put him in the right and also ensure that he does not go

wrong. But if he is a non-official, then of course, certain conditions will have to be laid down in order that he may be brought to book in case of a mistake or any wrong done by him. But so far as the suggestion made in the amendment is concerned, my simple answer is that if a liquidator is guilty of any offence, the ordinary law of the land is there to bring him to book. Therefore, I submit that an amendment of this nature is not necessary and I oppose it.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Lalit Chandra Das: that after clause 90 of the Bill, the following new clause be inserted, namely:—

"90A. (*1*) Where in the course of winding up a co-operative society, it appears that the liquidator has misapplied or retained or become liable or accountable for any money or property of the co-operative society or been guilty of any misfeasance or breach of trust in relation to the society, the Registrar shall on the application of the person aggrieved refer the matter to the Court in whose jurisdiction a suit for liquidation would lie which shall examine into the conduct of the liquidator and pass such order as the Court thinks fit.

(*2*) This section will apply notwithstanding that the offence is one for which the offender may be criminally liable".

(The amendment was negatived.)

Clause 91.

Mr. PRESIDENT: The question before the House is: that clause 91 stand part of the Bill.

(The motion was agreed to.)

Clause 92.

Mr. PRESIDENT: The question before the House is: that clause 92 stand part of the Bill.

(The motion was agreed to.)

Clause 93.

Mr. PRESIDENT: The question before the House is: that clause 93 stand part of the Bill.

(The motion was agreed to.)

Clause 94.

Mr. PRESIDENT: Clause 94 stand part of the Bill.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, if I may be permitted by the House, I would like to take away the second part of this amendment. I wish to move only the first portion. Can I do it, Sir?

Mr. PRESIDENT: Yes, you move.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move that in sub-clause (*1*) of clause 94 of the Bill, for the word "may" in line 3, the word "shall' be substituted.

Sir, the object of the land mortgage banks is to redeem old debts and old mortgages. So, Sir, I think it should be obligatory on the land-mortgage banks to issue notice on the previous mortgagees to come and take payment of their old debts. For that reason, I think, Sir, instead of the word "may", it should be "shall". In every case it should require the prior mortgagees to come and take payment of their debts. For that reason, I have asked for substitution of "shall" in place of "may" and I hope it will be accepted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 94 of the Bill, for the word "may" in line 3, the word "shall" be substituted.

The question before the House is: that in sub-clause (*1*) of clause 94 of the Bill, for the word "may" in line 3, the word "shall" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 94 as amended stand part of the Bill.

(The motion was agreed to.)

Clause 95.

Mr. PRESIDENT: The question before the House is: that clause 95 stand part of the Bill.

(The motion was agreed to.)

Clause 96.

Mr. PRESIDENT: The question before the House is: that clause 96 stand part of the Bill.

(The motion was agreed to.)

Clause 97.

Mr. PRESIDENT: The question before the House is: that clause 97 stand part of the Bill.

(The motion was agreed to.)

Clause 98.

Mr. PRESIDENT: Clause 98 stand part of the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, clause 98 refers to power of distraint. It is rather a very sorry spectable to find that this provision for distraint which obtained previously even in the Tenancy Law of the country and had been repealed long ago is being inserted in a law which is meant certainly for the masses. Even in the tenancy law it was thought proper not to provide for power of distraint. It is indeed a very drastic provision. No doubt there is evident on the part of the debtors a tendency not to pay,—a tendency which has produced a very sorry reaction on the other side. It has created a very strong desire to resort to all sorts of measures for the realisation of the dues and it is really on account of this feeling in the minds of those responsible for this law that this particular provision has found a place in a Bill which is meant for relief of the poor masses, a provision which allows the power of distraint of crop.

With these remarks, Sir, I move that clause 98 of the Bill be omitted.

Mr. PRESIDENT: Amendment moved: that clause 98 of the Bill be omitted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, it is with some amount of regret that we have to oppose this deletion. We agree that the power of distraint is a very drastic power but we have had to agree to the clause for certain reasons which I am anxious to explain. We have, as you know, dried up rural credit to a great extent by various Acts and it is necessary that rural credit should be re-established. One machinery which has been attempted to be set up by this Bill is that some land mortgage banks should be established. Now, these land mortgage banks will borrow money from the Government or from the Reserve Bank or from the public. They will get money at a very cheap rate. They will lend money to other co-operative banks at a slightly higher rate which will be considerably cheaper than the market rate and these small lending banks will lend money to co-operative societies. So, in order to allow the land mortgage banks to lend money at a very cheap but economic rate it will be necessary to

secure their money and provide means for their speedy realisation. If the banks experience any difficulty in realising their money or if they are driven to law courts for realising their money, they will suffer tremendous loss and in a case like that the land mortgage banks will refuse to lend money at cheap rates. They will have to add the cost of litigation, and the uncertainties attendant thereto and the rate of interest will be higher or the land mortgage banks will go away from the scene and offer no help to the people. In order to enable or encourage these banks to lend money at a cheap rate to the people, it is necessary to secure their money very effectively.

Now, provision has been made that the land mortgage banks will lend money and realise the money on instalments extending in some cases to 20 years. That will show that their instalments will be extremely easy to pay, and I believe—and we have the benefit of the experience of some retired officers of the department amongst us to assure us—that in cases where money would be lent by these banks, there will be no hardship. In fact, as a matter of fact, we do not anticipate that their crops will be distrained, but this power should be there in order to afford some amount of assurance to the land mortgage banks to lend money without any difficulty or any hesitation. In order to encourage them to lend money at a cheap rate, this provision is necessary. I do not anticipate that this provision will be used.

Now, Sir, there is an amendment by Khan Bahadur Saiyed Muazzamuddin Hosain whose sympathy for the people and specially for the poorer section of the people cannot be exceeded by any member in the House. He has tabled an amendment that the amount of crop that will be distrained will never exceed half. That would, to a great extent, mitigate the hardship. But on a careful consideration we think that for the benefit of the very people for whom we all have sympathy, this clause should remain, for it is to their interest that things should be rather drastic and they should borrow money knowing their terms. If they are encouraged by easy terms to make default, the difficulty would be that arrears will accumulate leading them to further defaults and to further financial disaster.

So, taking a practical view of the situation we have been compelled to agree to the retention of this clause, and we believe that it is for the benefit of the people, which is nearest to the heart of every member in this House.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, this section 98 will bring about a situation in my mind which would be worse than the Kabuli *julum*. It appears from his looks that my honourable friend Khan Bahadur Naziruddin Ahmad does not quite understand what I mean by Kabuli *julum*. Well, while the Kabulis lend money to poor agriculturists, they do not go to law courts for

realising their dues. When the time for realisation of the money comes, these Kabulies go to mufassil with their *lathis* and by *lathis* they realise their money from their debtors. There are sometimes fracas between the parties, breaking of heads with the result that perhaps it fills the pocket of my friend the Khan Bahadur who is a Public Prosecutor when the cases go up before the Sessions Judge. Sir, I think no such power of distraint should be given in the case of the land mortgage banks. They have got the debtors' land mortgaged to the banks. Land is the best security for the money that will be advanced by the land mortgage banks. Sir, it is stated, notwithstanding anything contained in the Transfer of Property Act, 1882, these banks will be able to recover their money by distraint and sale of the produce of the poor agriculturists. Now, Sir, I will draw the attention of the House to certain provisions of the Civil Procedure Code. So far as the provisions of the Civil Procedure Code is concerned, nothing has been said that this section would affect those provisions. I would draw the attention of the House to section 60 of the Civil Procedure Code. Therein, it is stated that certain things cannot be attached. That section provided that the following particulars shall not be liable to such attachment or sale, namely:—

"(*a*) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;

(*b*) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section."

Sir, here is a section on the side of humanity. The agriculturists may be put to a very great danger if their produce is liable to attachment. Sir, the provision is there making exemption with respect to their tools of husbandry and other things including seed-grains and such portion of the agricultural produce as may be necessary for their livelihood. Sir, next section referred to is section 61 of the Civil Procedure Code. Section 61 says that the local Government may, by a general or special order published in the local Official Gazette, declare that such portion of the agricultural produce or any class of agricultural produce, as may appear to the local Government to be necessary for the purpose of providing, until the next harvest, for the due cultivation of the land and for the support of the judgment-debtor and his family, shall, in the case of all agriculturists, be exempted from any liability

to attachment or sale in execution of any decree. I should ask Government to seriously consider the condition of the agriculturists. In any hard year, the agriculturist finds it difficult to have his barest sustenance till the next harvesting time. Only yesterday, we heard a description of the havoc which the recent flood has caused in Contai, and according to this provision if an agriculturist there happens to possess some quantity of grains in his house, that would be liable to attachment. I, therefore, say that it is an inhuman clause altogether. Sir, the sections I have referred to are applicable to the whole of India with respect to such produce of the agriculturist that will go for his livelihood and the livelihood of his family. But the provision that has been made in this Bill which seeks to mitigate the hardships of the lot of the rural people by forming co-operative societies amongst them, is one which seems to me to be unthinkable. Such a provision should not find a place at least in a Co-operative Societies Bill.

Mr. NUR AHMED: Sir, I think this is a most important amendment which ought to be given a serious consideration by this House. I agree with the mover of the amendment when he says that Government are taking a very drastic power and that if this power is not properly exercised but is misused or abused, it will bring misery to the very agriculturists for whose benefit the land mortgage bank is going to be established. Sir, it is a known fact that our agriculturists are very poor and that cultivation is their only means of sustenance. They are very heavily indebted; the question of relieving them of their terrible indebtedness has been considered from many points of view, and various remedies have been sought. In spite of past endeavours for the relief of these people who form 70 per cent. of our population, no effective remedy could be found which achieved the desired result, and the peasantry is going down heavily in debt from day to day. I think it is a known fact that the amount of their debts is being doubled or trebled. The last remedy that has been suggested is the establishment of land mortgage banks and the lending out of money on long terms. To me, Sir, the question that should engage our attention now is: how the land mortgage banks will function and what will be the powers of these banks. It is an admitted fact that the land mortgage banks generally raise their funds by issuing debentures and for the issue of these debentures it is necessary that these banks should command confidence in the open market. Sir, in order that the depositors' confidence may not be shaken, it is necessary to give some sort of extraordinary power to these banks. It is, therefore, that wherever these banks have been established, similar power has been taken for the smooth working of these banks. There is a provision similar to this in the Central Provinces Act from which my learned friend, Mr. Das, has just now quoted. Then, Sir, section 9 of the Madras Land Mortgage Bank Act of 1935 contains similar powers as this

Government are now taking. But in those Acts there is a safeguard that the power conferred should be judiciously exercised so that a certain amount of the produce cannot be attached. I do not find any such safeguard in this measure, but I am in a position to assure the House that my learned friend to my left will just now move an amendment to fill up that gap. If that is done, there will be no necessity to accept this amendment, and on that ground, Sir, I must oppose it.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I rise to support the motion of my friend, the Leader of the Opposition. There was originally a similar provision in the Bengal Tenancy Act, but later it was thought that that provision would cause real hardship, and by the unanimous opinion of this House that section was deleted. Sir, when a similar provision for the realisation of the arrears of rent had to be taken out of the Bengal Tenancy Act because of its drastic nature, I cannot understand why it is sought to be introduced in this Bill. Rent is the first charge. Even landlords are allowed to take in kind instead of cash. In that case, they are debarred from taking action by attaching the crop. If that is so, I do not see how it is going to be allowed in this case. What about *Bhagidars*? Will their crop be attached? It must be admitted, Sir, that once a principle is accepted, it should be followed in every case. Secondly, Sir, my friend, Mr. Das, has referred to section 60 of the Civil Procedure Code, and in view of the provision contained therein I am doubtful whether the Registrar will have power to realise the dues by distraint. That is a legal matter on which it is difficult to give an opinion by laymen. However, if the Registrar takes that step, it means that he will have to use force to realise his dues.

Then, Sir, the next question is that if this clause is deleted, what would be the disadvantage? The effect would be that the realisation of the dues would be delayed. When the land has been mortgaged, there is sufficient security provided, as the land is there to pay for the dues. The only question is the question of time, for which I do not think that such a drastic measure should be incorporated in this Bill. If this provision be incorporated in the Bill, the only advantage will be that the dues will be realised early and nothing more.

With these words, Sir, I support the amendment.

Maulvi ABUL QUASEM: Sir, the question is a simple one. A loan is given on the security of land. Now, Sir, the society concerned could straightway sell the land and deprive the debtor for ever of its produce; but here something is being provided which, instead of depriving him of his land for ever, would deprive him of its produce on a particular occasion. Therefore, by this provision he is being

given the milder choice of losing his produce instead of his land. Do you want that his land should be for ever taken away and straightway sold off and that he should not be given any respite? Do you mean that the land mortgage bank should be compelled to resort to the remedy of sale to realise its dues and thereby for ever deprive the unfortunate debtor of his land and also of his produce? I think what is sought to be done by this provision is in the interests of the borrower himself. The borrower will only be deprived of his produce of a particular season but he will not be finally dispossessed of his land.

Mr. LALIT CHANDRA DAS: Of what use will his land be if he dies of hunger in the meantime?

Mr. ABUL QUASEM: In any case, if he dies of hunger, he is to be blamed for it, for he has deliberately chosen to take a loan on the security of his land. He is given easy instalments by which to pay up his dues, and when he fails to repay a particular instalment, he is given a month's time to do so, and if even after the month his dues remain unpaid, the society may, in addition to other remedies, apply to the Registrar to have his produce of the season sold. Therefore, his land is left to him. I think it is a merciful consideration that is being shown to him. Sir, I oppose the amendment.

Mr. J. B. ROSS: Mr. President, Sir, in rising to oppose this amendment, I would like just to remind my honourable friend, Mr. Lalit Chandra Das, when he refers to the case of the people of Contai, of the old cliche that "hard cases make bad law". We have had since the inception of this Government a number of Bills introduced into and passed by the Legislature with the object of lifting the *raiyat* or the cultivator out of the morass of debt into which he has brought himself. The object of this Bill is to create healthy co-operative societies which will help such cultivators, from the moment this Bill comes into effect, to keep out of debt and it is the intention of the Government, I presume, to ensure that such societies are brought into a healthy condition and to keep them healthy. Now, the cultivator in this country has been so accustomed to carrying a load of debt, which he is either unable to repay or has no intention of repaying, that if matters are not tightened up under the provisions of this clause, he will merely look upon an unpaid instalment due to a co-operative society as another of those inconvenient debts that he cannot repay. I think, therefore, Sir, in order to keep these societies healthy, the provisions of this clause are very necessary, indeed.

With these words, Sir, I oppose the amendment.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am sorry that the honourable the Leader of the Opposition should have read in this clause something of a very reactionary character. Three of my honourable friends have given the answer and showed to the House the necessity of a clause of this nature in this Bill. Now, Sir, I may just analyse the position a bit in order to remove the apprehension that is still lingering in the minds of my honourable friends towards my left. What is it that we want to do through the land mortgage banks? We want to give some pecuniary help to a cultivator who is a member of a society either to pay up his old debts or to take more lands for the purpose of increasing his resources. When that is done, it follows that his credit has been taken into account; and when that arrangement is made, the debt under which he puts himself by this transaction is spread over a number of years. And unless the yield of his land is sufficient to cover the annual instalments, we do not and cannot think of a land mortgage bank functioning properly. Now, Sir, the Hon'ble the Leader of the Opposition as also my friend the Raja Bahadur of Nashipur have said in the course of their arguments that the provision of distraint existed in the old Bengal Tenancy Act and that out of sympathetic consideration towards the tenantry of the province Government omitted that provision from that measure. Now, Sir, I submit with all respect to these two honourable friends of mine that one does not stand a comparison with the other, for under the ordinary law of the land we know that rent is the first charge. If there is arrear of rent and if the landlords of the type of my honourable friend the Raja Bahadur of Nashipur think of selling the man out in execution of the decree for arrears of rent, what will happen to the dues that will be outstanding so far as the land mortgage bank is concerned. The bank is not a charitable institution. When it draws its finances from the investing public, it has got to give the investing public the assurance that their money is perfectly sound and safe. On the other hand, when the cultivator takes this money from the land mortgage bank he has also got to be sure that after paying the rent there will be sufficient left from out of the produce to be able to pay the instalment of the land mortgage bank as also to meet his other expenses so far as the household and other affairs are concerned. Now, if the possessor of the land is not able to pay this small instalment due to the land mortgage bank, I would submit respectfully that he is in the position of an insolvent and therefore the question of taking any loan from the land mortgage bank so far as he is concerned does not arise. I submit, therefore, that it is not only necessary, but that it is a salutary provision which must be there; otherwise, as the honourable Leader of the European Group has just now pointed out, he will then be carrying a load of debt—I do not wish to say with intention—that is the word used by him—but without the means of repaying, because his loan will be increasing more and more

as he goes on from day to day. Therefore, I submit, Sir, it is a very healthy provision which is essentially necessary if you want to work the land mortgage banks in a very satisfactory manner.

Then again, Sir, if my honourable friends be good enough to peruse sub-clauses (*1*) and (*3*), there ought not to remain any the least apprehension in their minds that we desire to keep him under bondage of this nature for all time to come. For, we say in sub-clause (*1*) that as soon as the instalment has fallen due within a month, a portion of the produce shall be distrained so that the instalment is paid up.

Then again, Sir, in sub-clause (*3*) we have made it amply clear that if the instalment is due for over 12 months, the question of distraint will not arise. Therefore, Sir, by these two clauses we have made it amply clear to our critics that the provision is essentially necessary in order that the man may go on paying his dues to the land mortgage bank in a very easy way and that he need not be kept under bondage for all time to come. My friend Mr. Abul Quasem has pointed out to the House that it is not only a lesser evil but that it is certainly more healthy for an agriculturist of that nature. I submit, therefore, Sir, there is no justification for the House to accept this amendment and I submit with all respect to the honourable Leader of the Opposition that it is under some amount of misapprehension that he has tabled this amendment.

Sir, I have to oppose the amendment.

Mr. NARESH NATH MOOKERJEE: Sir, I rise to support this amendment. I thought that the Government had assured the people of this province that they were going to break their necks in order to keep the prices of agricultural produce up. That is the assurance, Sir, that the Hon'ble Mr. Suhrawardy gave on the floor of the Legislature, as far as I remember. I would only like to point out to the Hon'ble Minister what the effect of such a clause would be on agricultural produce during the season time. Government have on more than one occasion assured the country that they were going to control prices, they were going to keep prices up at any cost. Sir, a provision of this kind which will only be applicable in times when the crops are ready will not only bring untold misery to the *raiyats* themselves but it will completely jeopardise any scheme the Government may come forward with at the time in order to keep prices up. Moreover, Sir, I also feel that this will be an absolute death-blow to the growth of land mortgage banks. Which *raiyat* is going to borrow money from the land mortgage bank simply on the score of being able to get a little lower rate of interest and on a longer term if his crops stand in constant danger of being sold at ridiculously low prices in season and out of season whenever his instalment falls due? I fail to see how the

Government can feel that a clause of this kind is going to foster the growth of land mortgage banks in the province. I feel, Sir, on the other hand that these *raiyats* will be forced to go to other *mahajans* and borrow at a much higher rate of interest because they will be assured of better treatment at their hands and what will happen is that their indebtedness will continue and grow. It is far better for the *raiyats* to live in their present state of indebtedness than to be in sudden danger of having their crops sold and also eventually their lands sold owing to the operation of a clause of this kind.

Sir, I really feel that the Government should consider putting in at least some amendment by which some degree of better security will be afforded.

Now, Sir, sub-section 3 clearly points out that the distraint must be executed as soon as possible so that during one season the agriculturist may be deprived practically of more than half of his crop, or perhaps it may be the whole of his crop. What is the use of an agriculturist keeping his land when he will be starved to death by being dispossessed of the crop? I really feel, Sir, that this is a measure which is unheard of particularly in these times when the Government are trying to assure the agsiculturists of a sure return from their crop, when they are trying to put them on their feet. I can only take it, Sir, that all these assurances are false and that they are merely put forward to gain cheap publicity. That is all I can say.

Mr. PRESIDENT: The question before the House is: that clause 98 of the Bill be omitted.

A division was then demanded and taken with the following result:—

AYES—13.

Bose, Rai Bahadur Manmatha Nath.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Choudhury, Mr. Ranajit.
Roy, Mr. Amulyadhone.
Roy Chowdhury, Mr. Birendra Kishore.
Sanyal, Mr. Sachindra Narayan.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—24.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Aziz, Khan Sahib Abdul.
Barua, Mr. Dhirendra Lal.
Choudhury, Mr. Moazzemali.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
D'Rozario, Mrs. K
Ferguson, Mr. R. W. N.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Momin, Begum Hamida.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur Ataur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Ross, Mr. J. B.
Roy, Rai Bahadur Radhica Bhusan.
Scott-Kerr, Mr. W. F.
Singh Roy, The Hon'ble Sir Bijoy Prasad.
Stark, Mr. A. F.
Taifukdar, Dr. Kasiruddin.

Mr. PRESIDENT: Order, order. The House has divided.

For the amendment—13; against the amendment—24. The amendment is, therefore, negatived.

Rai Sahib JATINDRA MOHAN SEN: I beg to move that in sub-clause (*1*) of clause 98 of the Bill, for the word "Registrar", the words "Collector of the district" be substituted.

Sir, the House has seen that I have made several attempts to take away some of the powers of the Registrar and confer them upon the District Judge or the Collector. Here is a power which I think, in view of the speeches that have been made with regard to some of the earlier amendments, should be conferred on the Collector and not on the Registrar. The Registrar will be hundreds of miles away in Calcutta and the power that is being conferred on him will ordinarily be exercised by the Assistant Registrar or an Inspector of the Co-operative Society in the name of the Registrar. So, the Collector of the district, in my opinion, will be the proper person and not an officer of the department, who will be in a position to say whether a *raiyat* will be very much hard-pressed and whether untold misery will be done or not when an order of distraint is granted. In that view, I want to place the power in the hands of the Collector and not in the hands of the Registrar.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 98 of the Bill, for the word "Registrar" the words "Collector of the district" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose this amndment. When we will deal with a land mortgage bank, it will be under the rules to be framed and approved by the Registrar and when there is any dispute, the proper course for them would be to apply to the Registrar for taking action. So, I do not think there is any need for the amendment suggested by my friend Mr. Sen. I oppose it.

Mr. PRESIDENT: The question before the House is the amendment of Rai Sahib Jatindra Mohan Sen: that in sub-clause (*1*) of clause 98 of the Bill, for the word "Registrar" the words "Collector of the district" be inserted.

(The amendment was negatived.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSSAIN: With your permission, Sir, I would like to make a drafting change, namely, that instead of having it in a sub-section restricting the distraint to one-half, I would like to have this done in sub-clause (*1*), that is, I move that after the word "sale", the words "of not more than one-half" be added.

Sir, the object which has prompted me to move this amendment is to mitigate the hardship of the debtors. I have heard it said that distraint will create mischief among the agriculturists of Bengal, and in this connection many things have been said. Sir, I yield to none in my desire to help the agriculturists because nobody knows more than I do how very pitiable their condition is and how poverty-stricken they are. We know that in the Bengal Tenancy Act the provision for distraint has been removed. The zamindars were given powers of distraint by what is called the *Punjam* Act shortly after the Permanent Settlement, and that power was an arbitrary power. The zamindar could then distrain a standing crop by merely serving a notice on the tenant without going to the civil court. Such arbitrary power had the result of practically crushing the entire tenantry of Bengal. So, this distraint has a very bad association since the days of the *Punjam* Act. Later on, when this distraint was of a milder form, even then we did not forget all about its association. So, the Legislature thought it best to do away with it. If the distraint is properly and judiciously applied, it will be better for the tenants and for the agriculturists because by such distraint they will be able to pay off their dues without losing their property. They will have the property left to them although for the time being they may have to suffer some hardship. For that reason. Sir, I have suggested that the creditor will be allowed to distrain not more than one-half of the crops so that the debtor will have at least something to fall back upon for his subsistence. I think, therefore, this clause should be amended, restricting the distraint to one-half of the crops, and if this is done, it will be in accordance with the spirit of the Civil Procedure Code which has just now been referred to by my friend, Mr. Das.

Then, Sir, my friends have referred to years of flood and distress and observed that if a distraint is applied in such a year the tenant will be left with nothing. In that connection, I shall draw their attention to sub-clause (2) of clause 98 where it is definitely laid down that subject to the provisions of this Act and the rules, the Registrar will take such action as is necessary. So, there will be the rules for such special occasions, and I am confident that the Hon'ble Minister will make it clear that there will be rules to the effect that in the years of distress and flood, no distraint will be resorted to.

If my amendment is accepted, the object of not depriving the debtors of their means of subsistence will be achieved and the tenant will not be left with nothing while at the same time his debts will be cleared.

In view of what I have stated, Sir, I hope the amendment I have proposed will be accepted by the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) o clause 98, after the word "sale", the words "of not more than one-half' be added.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I am glad that I am able to support this amendment on the ground that half a loaf is better than no bread. It is something very positive and will be very helpful to the agriculturists. Without this the agriculturists would have been scared away from the land morgage banks. Sir, the land mortgage bank ought to be satisfied with the mortgage of the land and its sale, but over and above that, power has been given to it to go out of its way and distrain the whole of the standing crops of the debtor. But now an amendment has been made to distrain only one-half of the crops. I submit that it is a helpful amendment. With regard to the remark of my friend, Mr. Abul Quasem, that the distraint of the whole crop would rather be a blessing to the debtor, I hope, now that an amendment has been moved by a member of his party to reduce the distraint to one-half of the crop, he will see virtue in it and would not stand in the way of this amendment.

Khan Bahadur ATAUR RAHMAN: Mr. President, Sir, I beg to support the amendment which has been moved by my friend, Khan Bahadur Saiyed Muazzamuddin Hosain. Apart from the argument put forward by my friend, the Khan Bahadur, there is another thing to be considered. Sometimes the mortgagor might cultivate his land on the *barga* system by which one-half of the crop goes to the cultivator and the other half to the other party. If the whole crop were sold, the innocent third party would have been the sufferer. The present amendment will save him from that trouble. On that ground also, I think, this is a very reasonable amendment which, I hope, the House will be pleased to accept.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I do not think I should weary the House with a long speech for I am extremely glad to find myself in agreement with the mover of this amendment. I shall go further to assure the House that it will not be necessary for us to go to the length of distraining even one-half of the crop for when we have a system of instalment spread over a period of fifteen to twenty years, perhaps a lesser amount will be quite sufficient. The mortgagor should be very careful to see that his annual instalment is paid regularly so that the land mortgage bank may have no opportunity to use this power. I can also assure the House, especially my honourable friend, the Leader of the Opposition, that he need have no apprehension about what Government intend to do, should an unfortunate circumstance in the shape of flood or distress arise. In that

event, it will be our duty to see that the people come to the land mortgage banks for the purpose of receiving some pecuniary help.

With these words, Sir, I support the amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 98, after the word "sale" in line 7, the words "of not more than one-half" be added.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 98, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 99.

Mr. PRESIDENT: Clause 99 stand part of the Bill.

The question before the House is: that clause 99 stand part of the Bill.

(The motion was agreed to.)

Clause 100.

Mr. PRESIDENT: Clause 100 stand part of the Bill.

The question before the House is: that clause 100 stand part of the Bill.

(The motion was agreed to.)

Clause 101.

Mr. PRESIDENT: Clause 101 stand part of the Bill.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in clause 101 of the Bill, for the word "Registrar" in line 1, the words "Collector of the district" be substituted.

Sir, I have already given by reasons for substituting the words "Collector of the district" in place of the word "Registrar". My additional reason is that the sale officer should not be below the rank of a Sub-Deputy Collector. The Collector should have, in my opinion, the power of deputing a sale officer to conduct the sale, because in that case we can expect that the sale would be conducted properly and without detriment to the debtor.

Mr. PRESIDENT: Amendment moved: that in clause 101 of the Bill, for the word "Registrar" in line 1, the words "Collector of the district" be substituted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to oppose the amendment on the ground that the Collector is a very busy man, far more busy than the Registrar, and if the powers are given to the Collector, the net result will be that he will make it over to a Kanungo for conducting a sale. On the other hand, it would be far better to leave it to the Registrar whose main duty it is to deal with the co-operative banks, and he knows best to whom to entrust this responsible duty. Even if it is entrusted to an Inspector to conduct the sale, it would be far beter than to entrust it to a Kanungo. On that ground, Sir, I think it is better to give this power to the Registrar.

Mr. PRESIDENT: The question before the House is: that in clause 101 of the Bill, for the word "Registrar" in line 1, the words "Collector of the district" be substituted.

(The amendment was negatived.)

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in clause 101 of the Bill, after the words "Sale Officer" in line 2, the words "whose rank shall not be below the rank of a Sub-Deputy Collector" be inserted.

Now, Sir, my amendment will certainly remove the doubt in the minds of my honourable friends, that the Collector may only depute a Kanungo for the purpose of conducting the sale. My amendment proposes that this officer should not hold the rank below that of a Sub-Deputy Collector. A Sub-Deputy Collector is ordinarily a gazetted officer, he is a responsible officer and sales should be conducted by such a responsible officer. We know, Sir, that ordinarily in civil courts or in the Collectorate sales are often conducted by the Nazirs but they do this under the supervision of the courts and the Nazir takes instruction whenever necessary as to how the sale should be conducted and at what bid the sale should be concluded and all that. In a matter of this importance, I should think that the sale officer should be a responsible person and that he should not hold the position less than that of a Sub-Deputy Collector.

Mr. PRESIDENT: Amendment moved: that in clause 101 of the Bill, after the words "Sale Officer" in line 2, the words "whose rank shall not be below the rank of a Sub-Deputy Collector" be inserted.

Khan Bahadur ATAUR RAHMAN: Sir, I oppose this amendment on the ground that the Sale Officer, as suggested by our friend Rai Sahib Jatindra Mohan Sen, should be a Sub-Deputy Collector. In the first place, the Inspectors are drawn from the same class of people as the Sub-Deputy Collectors—same as regards social status, educational

qualifications and practically the same pay as the Sub-Deputy Collectors. The Inspector is under the direct control of the Registrar; so he will be better looked after by the Registrar than a man borrowed from the Collector. Moreover, there is another side of the question. The Rai Sahib is a practising pleader in a civil court and he knows well how sales in the civil court are conducted by ministerial officers like Nazirs and Naib Nazirs and sometimes the peons who go to the mufassil are authorised to conduct the sale. So, it is much better that the power of sale should be in the hand of the Registrar and not in the hand of any other borrowed person.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have nothing further to add to what my honourable friend Khan Bahadur Ataur Rahman has said. On a previous occasion also, I had to point out to the House that we do not think of an officer of the type that my honourable friend is thinking in his amendment. Further, Sir, when we say in this clause that this appointment will have to be made subject to certain rules, I think that there need be no apprehension in the mind of my friend and that it will be the duty not only of the Registrar but also of the land mortgage bank to see that an officer of the proper type is appointed so that interests of none of them may be jeopardised. Sir, I oppose this amendment.

Mr. PRESIDENT: The question before the House is: that in clause 101 of the Bill, after the words "Sale Officer" in line 2, the words "whose rank shall not be below the rank of a Sub-Deputy Collector" be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 101 stand part of the Bill.

(The motion was agreed to.)

Clause 102.

Mr. PRESIDENT: Clause 102 stand part of the Bill.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in clause 102 of the Bill, in paragraph (*d*), for the word "creditor" appearing in line 1, the words "subsequent mortgagee" be substituted.

Sir, clause 102 deals with notice requiring payment from persons interested—notice to be given by co-operative land mortgage bank. Sub-clause (*d*) of clause 102 says that notice may also be given by any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property.

Now, Sir, by my amendment I suggest that in place of the word "creditor", the words "subsequent mortgagee" be substituted. My reasons are these. Sir, the co-operative land mortgage bank should not and cannot serve any notice upon a prior mortgagee. If for the prior mortgage, the mortgagee obtains a decree for the sale of the property, what right has the co-operative land mortgage bank to serve a notice upon a prior mortgagee. I say the prior mortgagor has got prior right by the very fact of his mortgage being prior to the co-operative land mortgage bank for any mortgage that will be given subsequently by an agriculturist. The word "creditor" is very vague and this should be substituted by the words "subsequent mortgagee". The subsequent mortgagee may be called upon by the co-operative land mortgage bank to make payment of the dues to the bank who has also got right of redemption. Therefore, I suggest that my amendment should be accepted.

Mr. PRESIDENT: Amendment moved: that in clause 102 of the Bill, in paragraph (*d*), for the word "creditor" appearing in line 1, the words "subsequent mortgagee" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am afraid the honourable member has not paid a little bit of attention to sub-clause (*b*) of this clause 102. So far as his amendment is concerned, it will be a misfit if the House were to accept this amendment. For, sub-clause (*l*) says "of a creditor who has obtained a decree for sale of the mortgaged property". But since my honourable friend says that a person who has the right to redeem the property should also have a notice if he has got a charge upon the property, I submit that is amply met by this sub-clause (*b*) which says "any person who has any interest in or charge upon the property mortgaged or in or upon the right to redeem the said property....."

Therefore, Sir, there is no justification to accept this amendment and I oppose it.

Mr. PRESIDENT: The question before the House is: that in clause 102 of the Bill, in paragraph (*d*), for the word "creditor" appearing in line 1, the words "subsequent mortgagee" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 102 stand part of the Bill.

(The motion was agreed to.)

Clause 103.

Mr. PRESIDENT: The question before the House is: that clause 103 stand part of the Bill.

(The motion was agreed to.)

Clause 104.

Mr. PRESIDENT: Clause 104 stand part of the Bill.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in clause 104 of the Bill, for the words, "within the prescribed period" appearing in line 4, the words "within six months from the date of the sale" be substituted.

Sir, the clause reads as follows: "When property mortgaged to a co-operative land mortgage bank has been sold under the provisions of this Chapter, the mortgagor or any person entitled to a notice under section 102 may within the prescribed period apply to the managing committee of the bank to have the sale set aside upon his depositing with the bank, for payment to the bank, the amount specified" and so on and so forth. This prescribed period should be 6 months and should not be left to the rule-making power of the Government. Six months is the usual time that is given now-a-days for persons to recover their property and instead of "prescribed period" it should be "six months".

With these words, I move my amendment.

Mr. PRESIDENT: Amendment moved: that in clause 104 of the Bill, for the words "within the prescribed period" appearing in line 4, the words "within six months from the date of the sale" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am sure my honourable friend will appreciate that this is a matter of detail and it will depend upon the circumstances appearing in each case. I submit, therefore, it is not possible for us to have a statutory period mentioned as is suggested by this amendment. It may be more, it may be less, as circumstances demand and therefore to avoid all the difficulties we have mentioned in this clause that all these will have to be determined by the rules to be framed. Sir, I oppose it.

Mr. HUMAYUN KABIR: On a point of information, Sir. Will the Hon'ble Minister make it clear whether the prescribed period does not suggest that a definite period will be prescribed in the rules, or are

we to understand from what he has just now said that it will be left to the discretion of the individual officer concerned and will vary from case to case? What does the word "prescribed" mean here?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, "prescribed" has been defined in clause 2 itself, which says "prescribed" means prescribed by rules made under this Act. I have just now explained to the House that it must depend upon the circumstances of the case and therefore it is not possible to have one period fixed for all cases.

Mr. PRESIDENT: The question before the House is: that in clause 104 of the Bill, for the words "within the prescribed period" appearing in line 4, the words "within six months from the date of the sale" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 104 stand part of the Bill.

(The motion was agreed to.)

Clause 105.

Mr. PRESIDENT: Clause 105 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 105 of the Bill, in sub-clause (*1*), for the word "results" in line 5, the word "result" be substituted.

Sir, the difference is this. The clause mentions results of the sale. I think the words "result of the sale" would cover a collective idea and no plural word is particularly needed. Result of the sale is collective result of all the factors. So, I think this word will be more appropriate.

Mr. PRESIDENT: The question before the House is: that in clause 105 of the Bill, in sub-clause (*1*) for the word "results" in line 5, the word "result" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 105, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 106.

Mr. PRESIDENT: The question before the House is: that clause 106 stand part of the Bill.

(The motion was agreed to.)

Clause 107.

Mr. PRESIDENT: Consideration of amendments relating to this clause is postponed for the time being.

Clause 108.

Mr. PRESIDENT: Clause 108 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 108 of the Bill, after the word "delivery" in line 3, the words "of possession" be inserted.

Sir, the Bill-clause speaks of the court ordering delivery to be made. I believe that the word "delivery" is rather vague. In connection with letters, delivery means something, and here delivery means quite another thing. Obviously, delivery of possession is meant, and what I want to do is simply to supply the gap which has been left out, probably accidentally.

Mr. PRESIDENT: The question before the House is: that in clause 108 of the Bill, after the word "delivery" in line 3, the words "of possession" be inserted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 108, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 109.

Mr. PRESIDENT: The question before the House is: that clause 109 stand part of the Bill.

(The motion was agreed to.)

Clause 110.

Mr. PRESIDENT: The question before the House is: that clause 110 stand part of the Bill.

(The motion was agreed to.)

Clause 111.

Mr. PRESIDENT: Clause 111 stand part of the Bill.

Rai Sahib JATINDRA MOHAN SEN: I beg to move that in sub-clause (*1*) of clause 111 of the Bill, for the word "Registrar" in line 2, the words "District Judge" be substituted.

Sir, it is common knowledge that the appointment of a Receiver is ordinarily made by the District Judge except in cases where the mortgaged property is already in the possession of a receiver appointed by a court. I do not understand why this statutory thing should be departed from in the case of the Bengal Co-operative Act. The Receiver is appointed to deal with certain matters entrusted to him and he has to take instructions from the officers who appoints him and in my opinion—and it is my considered opinion—the appointment of the Receiver should be left in the hands of the District Judge.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 111 of the Bill, for the word "Registrar" in line 2, the words "District Judge" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I had occasion to submit to the House that we were thinking of the application of the Co-operative Land Mortgage Bank for the purpose of appointing a Receiver under the conditions laid down in the previous clause. I do not know how the District Judge comes in in the case of the Land Mortgage Bank to do this work. The provision of the clause has been made after careful examination and I do not think it should be amended as suggested by my friend. I oppose it.

Mr. PRESIDENT: The question before the House is the amendment of Rai Sahib Jatindra Mohan Sen: that in sub-clause (*1*) of clause 111 of the Bill, for the word "Registrar" in line 2, the words "District Judge" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 111 stand part of the Bill.

(The motion was agreed to.)

Clause 112.

Mr. PRESIDENT: Clause 112 stand part of the Bill.

The question before the House is: that clause 112 stand part of the Bill.

(The motion was agreed to.)

The House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 11th September, 1940.

Members Absent.

The following members were absent from the meeting held on the 10th September, 1940:—

(1) Mr. Kader Baksh.
(2) Mr. Hamidul Huq Chowdhury.
(3) Mr. Narendra Chandra Datta.
(4) Khan Bahadur Alhadj Khwaja Muhammad Esmail.
(5) Mr. Mahomed Hossain.
(6) Khan Bahadur Syed Muhammad Ghaziul Huq.
(7) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(8) Maulana Muhammad Akram Khan.
(9) Mr. W. B. G. Laidlaw.
(10) Sir T. Lamb.
(11) Dr. Radha Kumud Mookerjee.
(12) Khan Bahadur Mukhlesur Rahaman.
(13) Khan Bahadur M. Shamsuzzoha.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 11th September, 1940, at 2-15 p.m. being the twenty-eighth day of the Second Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

The Bengal Co-operative Societies Bill, 1940.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I suggest that this question (No. 109) may be passed over?

Mr. PRESIDENT: Question No. 109 is postponed as the Hon'ble Minister who is to answer it is not present.

The Council will now resume further consideration of the Bengal Co-operative Societies Bill, 1940.

Clause 113.

Mr. PRESIDENT: The question before the House is: that clause 113 stand part of the Bill.

(The motion was agreed to.)

Clause 114.

Mr. PRESIDENT: The question before the House is: that clause 114 stand part of the Bill.

(The motion was agreed to.)

Clause 115.

Mr. PRESIDENT: Clause 115 stand part of the Bill.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in clause 115 of the Bill, after the word "shall" occurring in line 6, the words "without the previous written permission of the Collector" be inserted.

Sir, the object of this provision is to exclude the purchase by such officer in order to exclude the possibility of fraud being committed; but

if my amendment is accepted, namely, if previous application for purchase is made and written permission to purchase is obtained, the same object can be attained. There is no obvious reason why the class of persons mentioned in clause 115 should be absolutely debarred from bidding or purchasing property, movable and immovable, in the sale. There may be good reasons why such officers should be permitted to bid at the sale and absolute prohibition to bid or to acquire property would be not only unjustifiable but in some cases may cause hardship to such persons. It may be that such persons, by reason of accident to hold some office under or on account of their connection with the societies, will be debarred from acquiring properties which otherwise they ought to or should acquire for their own interest or for the interest of their family. So, my amendment proposes, Sir, that when such a person considers it necessary that such property should be acquired, he should make an application in writing to the Collector and if the Collector gives him permission to bid or acquire such property he should be allowed to do so. Thereby, the possibility of fraud or any irregularity will be avoided.

Mr. PRESIDENT: Amendment moved: that in clause 115 of the Bill, after the word "shall" occurring in line 6, the words "without the previous written permission of the Collector" be inserted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, there are two objections to this amendment. The first is the introduction of the expression "Collector" into the scheme. In fact, in this Bill the Collector has no official or easy means of knowing what is happening in a society. He does not know the parties or their politics in relation to the movement. So, he will not be the proper person to give any permission. The second objection is that persons who conduct the sales or have anything to do with the sale should not have any opportunity to bid at the sale. Under the Civil Procedure Code and various other relevant Acts, no person, who has any duty to perform in connection with any public sale, is ever permitted to bid either directly or indirectly in the sale. The idea has been repudiated everywhere. So, the acceptance of this amendment would lead to the introduction of a novel principle. It will be attended with fraud and numerous other attendant evils. If any person having a duty to discharge in connection with the sale has any interest in the sale, much harm may be done to the parties and it cannot be allowed. On these two grounds, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in clause 115 of the Bill, after the word "shall" occurring in line 6, the words "without the previous written permission of the Collector" be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 115 stand part of the Bill.

(The motion was agreed to.)

Clause 116.

Mr. PRESIDENT: The question before the House is: that clause 116 stand part of the Bill.

(The motion was agreed to.)

Clause 117.

Mr. PRESIDENT: The question before the House is: that clause 117 stand part of the Bill.

(The motion was agreed to.)

Clause 118.

Mr. PRESIDENT: The question before the House is: that clause 118 stand part of the Bill.

(The motion was agreed to.)

Clause 119.

Mr. PRESIDENT: Clause 119 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 119 of the Bill, in sub-clause (*2*) for the word "information" in line 4, the words "any information" be substituted.

Sir, this is only a drafting change.

Mr. PRESIDENT: The question before the House is: that in clause 119 of the Bill, in sub-clause (*2*) for the word "information" in line 4, the words "any information" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 119, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 120.

Mr. PRESIDENT: The question before the House is: that clause 120 stand part of the Bill.

(The motion was agreed to.)

Clause 121.

Mr. PRESIDENT: Clause 121 stand part of the Bill.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that clause 121 of the Bill be omitted.

Sir, clause 121 introduces a novel principle by shifting the ordinary onus from the shoulder of the proper party to a party on which the burden should not be placed. Clause 121 says "Where a mortgage executed in favour of a co-operative land mortgage bank, whether before or after the commencement of this Act, is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members thereof whether major or minor, the burden of proof shall, notwithstanding anything contained in any other law for the time being in force, rest upon the party which calls such mortgage in question."

In the first place, I beg to draw the attention of the House to the fact that this provision is only intended for members of the Hindu joint family and not for members of Muhammadan or any other community. In the second place, the onus which is placed under the common law on the shoulder of a person benefited is now intended to be shifted on the person who wants to call in question the propriety of the mortgage as the Bill provides that the burden of proof shall notwithstanding anything contained in any other law for the time being in force, rest upon the party which calls such mortgage in question. If this law is passed, it will be extremely difficult, if not impossible, to challenge the mortgage by a minor member of a Hindu family or even by a major member of a Hindu family if the manager of that family executes a mortgage to the detriment of the interest of the other members of the family, because it would be very difficult for a minor member or a major member in very many cases to discharge the burden which is intended to be placed on their shoulders. It makes a discrimination between one community and another. This is also a serious objection, as I have said before.

I, therefore, move that this clause 121 should be deleted altogether.

Mr. PRESIDENT: Amendment moved: that clause 121 of the Bill be omitted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I must oppose this. I am afraid, Sir, the honourable member Rai Sahib Jatindra Mohan Sen must have been labouring under a misapprehension. Clause 121, if he be good enough to read it once again will make it

clear that it talks of debt incurred by the managing member of the Hindu family for the purpose of improving the economic condition of the family. Where he has incurred such debt for the improvement of agricultural land and so forth and so on, that must stand. But then again there is nothing to prevent other members of the family to challenge such transactions. The only question is that the burden of proof must lie upon the person who challenges such a transaction. I submit, therefore, Sir, that such persons are not without remedy, but if money is taken from a co-operative land mortgage bank for the purpose of improving the economic condition of a family of that nature by the managing member of a family, I do not see as to what reason there can be to prevent the land mortgage bank from realising that money. If there is anything wrong so far as internal affairs of such a family are concerned, there is nothing to prevent one from challenging the conduct of another. But we are talking of loans taken by the managing member of such a family from a co-operative land mortgage bank and that must be allowed to stand. As I have submitted a moment ago, it is only to that extent, namely, when any member of such a family finds that he has been ill-treated or is sought to be cheated by the managing member, certainly he can call in question the propriety of the mortgage but he has got to show that such a thing really has happened.

On this ground, I oppose this amendment.

Mr. LALIT CHANDRA DAS: Sir, I support the amendment which has been moved by my friend Mr. Sen. This amendment also stands in my name. The present law is that when such a translation is challenged the onus is upon the creditor, and knowing this, Sir, an exception is sought now to be made in favour of land mortgage banks. Not that Mr. Mullick does not know. He knows it that the present law is that when such a challenge is made, the onus is upon the creditor. He wants to reverse it now, on the ground that the purpose of taking the loan is stated to be improving agriculture and methods of cultivation and purchase of land. Sir, where is the guarantee that the manager does not represent facts to the land mortgage bank and where is the guarantee that the land mortgage bank is not careless in lending money without proper enquiry. The manager may go to the authority of the land mortgage bank and represent there falsely, of course, that this money is necessary for the improvement of agricultural lands and also for the purchase of land. The authorities of the co-operative land mortgage bank may be careless enough and without enquiry may lend money. In that event, I think a great fraud could be perpetrated upon the members of a joint Hindu family and even upon minors. So, this clause will harshly operate on a joint family and should be omitted. With these words, I commend my amendment to the House, and I support also my friend's amendment which is similar in essence.

Mr. PRESIDENT: The question before the House is the amendmen of Mr. Lalit Chandra Das: that clause 121 of the Bill be omitted.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: I beg to move that in clause 121 of the Bill, the words "whether before or" appearing in line 2, be omitted.

Sir, this amendment will minimise the evil resulting from the operation of clause 121 of the Bill. The Bill-clause, as drafted, seeks to give retrospective effect but I wish to check that by this amendment.

With these words, I move my amendment.

Mr. PRESIDENT: Amendment moved: that in clause 121 of the Bill, the words "whether before or" appearing in line 2, be omitted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am extremely sorry to have to oppose this amendment. My honourable friend Mr. Das knows that we have got five land mortgage banks in the province one of which is in his own district. If such a transaction takes place, we have got to make a provision of this kind under this Act. Therefore, I am unable to accept this amendment.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Lalit Chandra Das: that in clause 121 of the Bill, the words "whether before or" appearing in line 2, be omitted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 121 stand part of the Bill.

(The motion was agreed to.)

Clauses 122 and 123.

Mr. PRESIDENT: The question before the House is: that clauses 122 and 123 stand part of the Bill.

(The motion was agreed to.)

Clause 124.

Mr. PRESIDENT: Clause 124 stand part of the Bill.

Rai Sahib SATINDRA MOHAN SEN: I beg to move that in sub-clause (*1*) of clause 124 of the Bill, for the word "Registrar" wherever it occurs, the words "Collector of the district" be substituted.

Sir, in this amendment I am again trying to bring the Collector into the picture of the Co-operative Societies Bill. Of course, I have failed all along and I am pretty sure that this time also I will fail. But I think it is well worth trying and I hope that my efforts will be crowned with success in future. Clause 124 is a clause which provides for attachment, if I may say so, before judgment. Here, power is given to the Registrar to order conditional attachment of the properties of the debtors before actual order is passed on the ground that such debtor is about to dispose of the whole or any part of his or its property from the local limits of the jurisdiction of the Registrar. These are very intricate and serious questions which should be decided by a court of justice. Ordinarily, the civil court would be the proper authority to decide these questions but as civil court has been ruled out, I have introduced the Collector of the district to minimise the difficulties and proposed that whenever it is desirable that a conditional attachment should be made before final attachment has been ordered, the question should be gone into by the Collector of the district. Any one who has experience of the court knows that the court is very reluctant to grant conditional attachment. It may be that the Registrar would be a cautious person and would see that such orders are not ordinarily passed. Ordinarily, he will not have the opportunity of hearing the parties but he will have to act upon the notes of the Assistant Registrar and even of the Inspector of the Co-operative Societies. As such, untold miseries and sufferings might be caused if such an order is passed *ex parte* without giving a hearing to the debtors. So my amendment proposes that when such drastic power is going to be given, it should be given to the Collector and not to the Registrar.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 124 of the Bill, for the word "Registrar" wherever it occurs, the words "Collector of the district" be substituted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, my learned friend has frankly admitted that he is not moving his amendments for the present generation. Probably he has moved it for his grand-children. So far as the present generation on our side of the House is concerned, we do not suffer from any difficulty on the merits. But two other sections of this House have spoken in contradictory voices. We have heard from the Congress Benches that any power given to the Collector will be power given to the agents of bureaucracy. They have frankly opposed the idea at a previous stage in connection with this Bill. On the other hand, my learned and honourable friend Rai Sahib Jatindra Mohan Sen wants to concentrate large powers in the hands of the Collector as he apparently has great faith in him. In these circumstances, before enabling us to make up our mind on this question and making

a choice between these two great parties in the House, they should first decide the matter between themselves, and let us know whether the Collector should be trusted or distrusted and discarded. We would then be in a position to decide the matter. For the present, the amendment does not commend itself to us.

Mr. PRESIDENT: The question before the House is the amendment of Rai Sahib Jatindra Mohan Sen: that in sub-clause (*1*) of clause 124 of the Bill, for the word "Registrar" wherever it occurs, the words "Collector of the district" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 124 stand part of the Bill.

(The motion was agreed to.)

Clause 125.

Mr. PRESIDENT: The question before the House is: that clause 125 stand part of the Bill.

(The motion was agreed to.)

Clause 126.

Mr. PRESIDENT: Clause 126 stand part of the Bill.

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move the in clause 126 of the Bill, for the words "four years" in line 6, the words "three years" be substituted.

Sir, clause 126 says that where, as the result of an audit under section 75 or an inspection under section 81 or section 82 or an enquiry under section 83 or a report made in the course of the winding up of a co-operative society, it appears to the Registrar that any past or present officer has at any time within a period of four years prior to the date of such audit, inspection, inquiry or report, as the case may be, the Registrar may enquire into the conduct of such officer. What I mean to say is that "four years" is too long a period and that "three years" ought to be enough time during which an audit officer is expected to detect any defect, if there is any. I submit that a longer period than three years is quite unnecessary and will create difficulty and keep persons in anxiety. So, I think it is desirable to substitute three years in place of four years. With these remarks, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in clause 126 of the Bill, for the words "four years" in line 6, the words "three years" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I hope the honourable member will appreciate the position sought to be explained in this sub-clause where it is said that if there is anything wrong done by a member and when that wrong is brought to light perhaps through the audit agency, he may be made liable for this wrong that he has done. A member continues to be in office for about three years and during the period that he is in office, I think my honourable friend will be good enough to see that it will not be possible for any outside agency to detect it. It is only when he is out of office that the defects which he had introduced could be brought to light. There might be feelings in some quarters that this period should be extended so that any loss caused to the society may be realised from such a member. But we have thought it fit to make it four years for the simple reason that while on the one hand guaranteeing the society the opportunity to recoup the loss, we do not want to penalise the non-official members in case they have willingly or unwillingly done something for which they may be liable for all time to come. With that end in view, we have kept it within a reasonable period of four years and I am afraid we cannot reduce this period. I oppose the amendment.

Mr. PRESIDENT: The question before the House is the amendment of Rai Bahadur Manmatha Nath Bose: that in clause 126 of the Bill, for the words "four years" in line 6, the words "three years" be substituted.

(The amendment was negatived.)

Mr. NUR AHMED: I beg to move that in paragraph (*a*) of sub-clause (*1*) of clause 126 of the Bill, before the word "made" in line 1, the word "intentionally" be added.

Sir, clause 126 is a very important clause. It says "Where as the result of an audit under section 75 or an inspection under section 81 or section 82, or an inquiry under section 83 or a report made in the course of the winding up of a co-operative society, it appears to the Registrar that any past or present officer has at any time within a period of four years prior to the date of such audit, inspection, inquiry or report, as the case may be". Then comes sub-clause (*1*) (*a*) to the effect that "made or authorised any payment which is contrary to the provisions of this Act or to the rules or by-laws". Now, Sir, it is necessary that the word "intentionally" should be inserted before the word "made", because the word "officer" includes President, Secretary, Assistant Secretary, Vice-President, Cashier, Manager, etc., of a

society, who are all honorary workers and unless something definite is provided, there may be abuse of this power. The Registrar has been given very wide power without any restriction. It appears that this will apply to any officer, honorary or paid, and the Registrar can take action against any of them. As it stands now, the co-operative movement in Bengal has not proved as successful as in the other provinces and if this exceptional power is given, it will compel these honorary workers who are now in the movement to remain aloof. I do not know what the Government want by enactment of sub-clauses (*a*) and (*b*) which are not found even in the Madras Act. Sir, sections dealing with such offences are the same as in the Madras Act, but there are no sub-clauses (*a*) and (*b*) here in that Act. It is only found in section 29 of the Bihar and Orissa Act which has been condemned and where we know that the co-operative movement has not prospered so much. Sir, I had a mind to move for the deletion of these two clauses (*a*) and (*b*) and for that I gave notice of amendment No. 608, but as the Government would not agree and as the party to which I have the honour to belong would not approve of it, I could not move that amendment. In this amendment, I voice my personal view and not the views of the party. I feel very strongly that these two sub-clauses (*a*) and (*b*) will serve to drive out all non-official honest workers who will not accept any office with the sword of Damocles hanging on them.

Sir, from my humble experience of the working of some co-operative societies and from the mentality of the officers of the Co-operative Department, I fear these powers will be abused right and left and those honorary workers who want to serve villagers and agriculturists through this movement will be placed at a very disadvantageous position. It will be very difficult to please these officers. The Registrar will not be in a position to control thousands and thousands of officers posted throughout the province and working in their respective spheres. I can well imagine the temper and mentality of these officers. They are after all human beings; they have got their own feelings, own sentiments, own eccentricities, own whims and I know what a difficult task it would be to deal with these officers who think themselves a class apart from the public or their own countrymen. I find that the wording here is much wider than that of the much-condemned Orissa Act. I do not find in the provision of that Act the word "authorised", but here the word has been used. If under authority anything is done the Registrar can at once take action against the person and penalise him. I think this power is a very wide power. So, I move the amendment only to mitigate the evil by inserting the word "intentionally". Those honourable members who have worked in this movement as Secretary or President, know the volume of circulars issued by the Registrar which raise intricate questions. Unless an officer has a

strong retentive memory, it will not be possible to remember all the rules and circulars. In an unguarded moment he may do something and owing to the unsympathetic attitude of an audit officer or somebody else he can be hauled up before the Registrar for his action. So, I want to add the word "intentionally", which means that if it appears to the Registrar that he has done a thing intentionally, in that case he may be hauled up.

With these few words, I would request the House to accept this amendment.

Mr. PRESIDENT: Amendment moved: that in paragraph (*a*) of sub-clause (*1*) of clause 126 of the Bill, before the word "made" in line 1, the word "intentionally" be added.

Mr. HUMAYUN KABIR: Mr. President, Sir, I beg to support this amendment though it seems to me that if my honourable friend had moved amendment No. 608 standing against his name, it would have met some of the difficulties which he has only mentioned before the House but has not pointed out how they are to be remedied. He has only told us that there are certain drawbacks and that certain dire consequences might follow. But at the same time though he had an amendment which was directed towards the removal of these dire consequences, he did not feel inclined to move that amendment. I confess that I also have felt some difficulties with regard to paragraphs (*a*) and (*b*) of this clause. In paragraph (*a*), it is suggested that any officer who has made any payment or authorised any payment under the provisions of this Act at any time during four years before the period of audit may be brought to account by the Registrar. Now, Sir, four years before this Bill comes into operation how is a person to know whether any act will or will not be authorised under the provisions of this Act? In the main body of clause 126, sub-clause (*1*) provides that audit will be under sections 75, 81 or 82 of this Act and in sub-clause (*a*), the penalty is provided for any infringement of these rules of audit which has taken place at any time four years prior to such period of audit. Now, Sir, the audit will take place after the Bill has been put on the Statute Book. And yet an officer may be hauled up before the Registrar for having done something which at the time that he did it was not prohibited under the law then in force. How is this difficulty to be explained? It is certainly proper that wherever there is any mismanagement of public funds, it ought to be penalised but if certain new rules are framed,—and there is no doubt whatsoever that this Act is going to change the rules with regard to the co-operative movement; indeed, we do not know as yet what the prescribed rules will be under this Act,—how is a person to anticipate what rules will be made and accordingly guide his conduct? Therefore, Sir, the insertion of the word "intentionally" in paragraph (*a*) will be a little improvement but not very much of an improvement, because

whether it is intentionally or unintentionally, in any case it may be without previous knowledge.

Similarly, Sir, with regard to (*b*), there is this difficulty that it leaves the matter very indefinite. Paragraph (*b*) reads: "by reason of his culpable negligence in respect of any prescribed matter involved the society in any loss or deficiency"; but how is culpable negligence to be defined? It is stated in the body of clause 126(*1*) that if it appears to the Registrar that there is——

Mr. F. A. STARK: On a point of order, Sir. Is this relevant to the amendment before the House?

Mr. HUMAYUN KABIR: May I submit, Sir, that both the clause and the amendments are before the House simultaneously. Sir, is not the whole clause before the House?

Mr. PRESIDENT: Just now the amendment I have put is before the House for discussion and not the clause of the Bill.

Mr. HUMAYUN KABIR: Then, Sir, with regard to the amendment, I have already stated what I have got to say.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I accept the amendment.

Mr. PRESIDENT: The question before the House is: that in paragraph (*a*) of sub-clause (*1*) of clause 126 of the Bill, before the word "made" in line 1, the word "intentionally" be added.

(The amendment was agreed to.)

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move that in clause 126 of the Bill, paragraph (*b*) of sub-clause (*1*) be omitted.

Sir, I do not think I need say much on this inasmuch as my friend Mr. Nur Ahmed has said a good deal about this while he was moving his amendment. Sir, to my mind the language is very vague and it should have been more definite. Sir, this clause is intended to penalise the non-official workers who have unfortunately taken any part in the management of any co-operative society or a Central Bank. I submit, Sir, that this expression "culpable negligence" is not defined anywhere and I beg to state that if it is allowed to remain here, then all sorts of things may be brought within the meaning of this expression, and therefore I think, Sir, that this should not find place inasmuch as this thing will always hang as a Damocles' sword on the head of the non-official workers, and scare them away. Therefore, Sir, I propose that this may be deleted altogether.

Mr. PRESIDENT: Amendment moved: that in clause 126 of the Bill, paragraph (*b*) of sub-clause (*1*) be omitted.

Mr. A. F. STARK: Sir, we oppose this amendment. There seems to be some misunderstanding about this clause. One of the troubles in the past, we know, has been that the Registrar has been powerless to rectify defects and defalcations which have been disclosed by audit. The section provides that before any action can be taken there must be an inspection or an enquiry or there must be an audit report and says that if by reason of his culpable negligence any past or present officer has involved the society in loss or deficiency, the Registrar may enquire into the conduct of such officer. That is the first thing he must do—enquire into the conduct of the officer. Then, he must give the officer an opportunity of being heard and if it involves a payment he must afford the officer an opportunity to recover the amount of the payment. Then, the Registrar may, subject to the rules, require the officer to pay such sum to the assets of the society by way of compensation as the Registrar thinks fit and to pay such sum as the Registrar may fix to meet the cost of the proceedings.

Well, Sir, it will be seen that the officer of the society is going to have every opportunity to represent his case. What is more, he has a right of appeal against any order under this section to the District Judge. It seems to me that the term "culpable negligence" is not quite so difficult of definition, as my friend Rai Bahadur Manmatha Nath Bose seems to think. It has been defined, I think he will not deny, in many cases in this country and in other countries.

In these circumstances, we think that the powers given under this section are absolutely necessary, if defects and mismanagement of the societies are to be rectified.

Mr. LALIT CHANDRA DAS: Sir, I rise to support the amendment which has been moved by Rai Bahadur Manmatha Nath Bose. Sir, this amendment is to be read in connection with sub-clause 126(*1*). Now, paragraph (*b*) says, "by reason of his culpable negligence in respect of any prescribed matter involved the society in any loss or deficiency." The word used here is "prescribed". I desire to draw the attention of the Hon'ble Minister to the definition of the word "prescribed" as given in the definitions of certain words—clause 2(*q*) —where it is said " 'prescribed' means prescribed by rules made under this Act". Now, if the matter is to be prescribed under rules made under this Act, how can you penalise past officers for matters for the period of four years prior to the date of such acts? That is hardly fair.

With these words, I support the amendment moved by Rai Bahadur Manmatha Nath Bose.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, some amount of misunderstanding has been caused by this sub-clause (*1*). I submit, Sir, sub-clause (*1*) is much more innocent than it looks. If any officer of a bank makes any payment contrary to the provisions of this Act, or by reason of culpable negligence involves the society into loss or deficiency, then what is the consequence? The only consequence is that the Registrar may inquire into the matter. This is, I believe, a most innocuous provision—that the Registrar may inquire into the matter. I think the Registrar would have the power to inquire apart from this provision. This is merely introductory to the powers in the next sub-clause. Sub-clause (*2*) is really the operative part of the clause. No objection has been taken with regard to the provisions of important sub-clause (*2*) which provides that the Registrar may, after making an inquiry subject to the rules and by an order in writing, require such officer to pay such sums to the society as he thinks fit. The provisions of sub-clause (*1*) only enable the Registrar to inquire into the matter. But sub-clause (*2*) provides for sufficient safeguards, through the rules, to save innocent and honest workers, while at the same time enabling the Registrar to tackle those who are not honest workers. I submit, therefore, that these two sub-clauses, which enable the Registrar firstly, to make inquiries and then, by rules prescribed under this Act, require the officer concerned to pay the losses caused, do not really contain objectionable clauses. With regard to paragraph (*a*) in sub-clause (*1*), the addition of the word "intentionally" has cured a certain amount of lacuna in it. But under paragraph (*b*), it is provided that if a man, by reason of his "culpable negligence", subject to anything which may be prescribed, involves the society in any loss or deficiency, then the penalty for that culpable negligence is that the Registrar will make an inquiry. I submit, therefore, that they are not really so objectionable as they have been taken to be. I freely admit that the feelings of two great co-operative workers like Mr. Nur Ahmed and the Rai Bahadur are genuine and reasonable. They have been in touch with the movement for a very long time and I can quite appreciate their feelings, but there are other workers——

Mr. LALIT CHANDRA DAS: On a matter of information, Sir. My friend has read twice from a voluminous book which is before him. He has used the expression "prescribed under the Act". I cannot understand wherefrom he gets it. I want to know whether the expression is in the book which he seems to read from.

Khan Bahadur NAZIRUDDIN AHMAD: I am sorry that my learned friend objects to my reference to the words and phrases in the Bill in my own way. There is in the clause an expression "subject to the rules"; this certainly means "rules prescribed by the Act". I have only used the word "prescribed" for the words "subject to the

rules". My learned friend should have realised that I am not very much accustomed to read passages from notes or from books; I sometimes look at them but use my own language in my own way, as far as I can. I was only paraphrasing the expression "subject to rules" in my own way and I think I was only attempting to simplify the provisions. I hope I have not misled any one except Mr. Das. Sir, it would be clear that the clause is not so objectionable as it has been thought to be. Good workers are safe. On the other hand, as I was submitting before, there are workers who are not as good as the two distinguished supporters of the amendment. There may be good workers who may have involved the societies in any loss, though not deliberately or intentionally; but there are others who are not as good, and unless some provision of this kind is made, the societies would be put to great losses. Further, Sir, it is not here alone that a provision of this kind has been incorporated; a provision like this appears in the Municipal Act and also in other Acts; so this is not a novel provision at all. The provision has been dictated by experience. This clause is not intended to entangle honest workers but only those who are not honest. In the circumstances, I submit that the clause is all right and that there will be no difficulty for good and honest workers.

Then, Sir, my friend, Mr. Lalit Chandra Das, has raised a legal question. He has said that the rules here mean the rules made under this Act and he has expressed some amount of surprise as to how the rules made under this Act can apply to cases which occurred when the old Act was in force. Sir, I beg to submit that the rules made under "this Act" will apply when this Act comes into force and, *prima facie*, when this Act comes into force, the existing Act goes out; and when the new Act comes into force, it applies to all things done, within a certain time limit, when the old Act was in force. Under these circumstances, if my learned friends would hold that acts done previous to the time when the new Act comes into force, would be controlled by the old Act and not by the new Act, that view, I submit, would be wrong and would create an anomaly. In that event, deliberate misdeeds committed in the past, involving the society in loss, would be without any remedy; because according to my friends the new Act would not apply to such cases. I beg to submit that the new Act will apply retrospectively to such cases if they are discovered after the new Act comes into force and through the new section. The clause will have retrospective effect. No anachronism or anomally, therefore, exists at all anywhere except in the subtle legal brain of my friend, Mr. Lalit Chandra Das.

Rai Sahib JATINDRA MOHAN SEN: Sir, I have listened with some degree of interest to the speech of my honourable friend, Khan Bahadur Naziruddin Ahmad. He has not really answered the point which

Mr. Lalit Chandra Das has raised. Section 126 provides for retrospective effect being given to certain acts done within a period of four years, and sub-clause (*b*) says that an investigation can be made with regard to any matter prescribed under this Act. Now, Sir, an act which is now considered to be one of culpable negligence may not have been of that character at the time when this act was actually done, because such an act was not prescribed to be so under the rules of the old Act. To penalise such an act which is subsequently prescribed to be one of culpable negligence under the new Act would be a procedure which is certainly open to grave objection. If in this clause it was provided that only such acts which ordinarily would be of culpable negligence would be investigated into, we could have understood it; but to say that it would apply to any matter which was not prescribed in the old Act but has been prescribed in the new Act, then a great deal of hardship would be caused. Sir, my learned friend has said that this section only provides for an investigation and so it is not likely to do much harm; but every one knows that an enquiry into a matter also leads to a great deal of difficulties. After all, the enquiry may be infructuous, but the amount of trouble, expense and waste of time which one has to pass through in an enquiry should not be taken light-heartedly. So, I strongly support the amendment of my friend, Rai Bahadur Manmatha Nath Bose.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am sorry I am not prepared to start with a presumption that all the non-official workers in connection with the co-operative movement have been acting in a culpable manner so that their conduct has got to be examined under the provisions of this Act. I do not know why this anxiety or apprehension is lingering in the minds of three of my honourable friends who have either tabled this amendment or spoken in support of it. Sir, as has been explained by my honourable friend, Mr. Stark, that only the cases mentioned in paragraphs (*a*), (*b*), (*c*) and (*d*) of sub-clause (*1*) will give jurisdiction to the Registrar to make an enquiry into the conduct of such an officer who will be involved or found to be involved in a matter of this character. Now, sub-clause (*2*), as Mr. Stark has pointed out to the House in a lucid manner, shows the ways in which the enquiry has got to be conducted and the findings that that enquiry may lead to. In the next place the clause provides for the payment of such sum to the assets of the society by way of compensation. But in case the person concerned has got a grievance he has got the right of appeal to the District Judge, the highest judicial officer in the district. I do not see, therefore, where is the apprehension that is at all to be felt in a case of this nature. My honourable friend, Mr. Das, has expressed a bit of surprise as to how a matter to be prescribed by the rules to be framed under this Act will be able to deal with matters which happened some time back, but I may

point out to him that these are those mentioned in (*a*), (*b*), (*c*) and (*d*) of sub-clause (*1*). These items are not conjunctive but they are only the alternatives. In connection with the happening of one or other of these four events, the Registrar will be able to look into the matter. In the next place it is a matter of procedure and I am sure that when an adjective law comes into operation, it takes effect all at once. Sir, it is not a substantive law, but it is one which deals with the procedure. As has been explained by my honourable friend, Khan Bahadur Naziruddin Ahmad, there should not arise any apprehension in the minds of anybody so far as this clause is concerned. I do not think I should take the time of the House any longer in connection with this matter. Sir, I have to oppose this amendment.

Mr. PRESIDENT: The question before the House is: that in clause 126 of the Bill, paragraph (*b*) of sub-clause (*1*) be omitted.

(The amendment was negatived.)

Mr. J. B. ROSS: Mr. President, Sir, before you put the clause to the vote, I would like to request the Hon'ble Minister to explain the position in regard to this period of four years, having in view the rather surprising statement which came from my friend, Khan Bahadur Naziruddin Ahmad. After all, once we pass this clause, it becomes the law, and we want to make sure before we make laws that they are not going to penalise people who had no knowledge or idea of the provisions of these laws before they came into force. I do not understand how it is possible justly to give retrospective effect to the provisions of this clause either to enquire into or punish any person for deeds which were a breach of the conditions of this Act, once it is passed, if these provisions were not in force at the time these deeds were committed. I would like to have some explanation from the Hon'ble Minister as to whether the Khan Bahadur's explanation was the correct one or whether the provisions of this clause can only apply with effect from the date on which the Act comes into force. The latter appears to me to be the only just method that can be applied.

Khan Bahadur NAZIRUDDIN AHMAD: On a point of explanation, Sir. My learned friend has referred to a certain statement that I have made. It seems to me that some amount of misunderstanding still exists regarding the scope of this clause. The question that is asked is whether acts done under the old Act can come under the purview of the rules to be made under this Act. The answer is to be found in sub-clause (*1*) of clause 126. This clause attempts to include any act within 4 years of the audit, within the meaning of this clause. So, although certain acts might have been done under the old Act, still, by virtue of clause 126, many acts done within 4 years of an audit, may come within the purview of this Act. Therefore acts done under the

old Act will, by virtue of this four years' limit, be acts done within the meaning of clause 126(*1*) of the Bill under discussion. I do not agree that retrospective effect has not been given by the clause, or if retrospective effect has been given by the clause, it will be illegal. It is really a question of policy. If any honourable member thinks that retrospective effect should not be given, he will be perfectly right, but as a matter of interpretation, I maintain that retrospective effect has already been given by the provisions of sub-clause (*1*) of clause 126, as drafted and that it will not be illegal. I do not quarrel with the question of policy but confine myself to the question of interpretation only. I submit my own interpretation to the House and I think, Sir, I am right.

Mr. J. B. ROSS: On a point of information, Sir. What is puzzling me is that paragraph (*a*) of sub-clause (*1*) of clause 126 makes reference to any payment which is contrary to the provisions of this Act. Now, how can you go back four years from the date on which this Act comes into force and penalise anybody for mistakes made contrary to the provisions of this Act when this Act was not in force? I do not understand this.

Khan Bahadur ATAUR RAHMAN: Sir, it is provided in this Act that when a member of a co-operative society dies without nominating any person to take back his share-money his legal heirs and representatives must produce succession certificate to get back that share-money. There is no provision like that in the outgoing Act. Suppose, an honorary worker of a co-operative society in the past paid some money without taking any succession certificate to the heirs—an act which was quite in conformity with the provisions of the old Act. But the Registrar acting under the provisions of the new Act will say, "Well, you made a payment which is contrary to the provisions of this Act. So, you are liable to reimburse this money." How this sort of difficulty can be got over: that is a thing which is puzzling me.

Mr. HUMAYUN KABIR: Mr. President, Sir, this was exactly the thing which I was trying to point out in connection with the other amendment but at that time it seemed to escape the attention of my honourable friends to my left and a point of order was raised about which I do not want to say anything. But, Sir, in that connection——

Mr. PRESIDENT: This is the time for you to speak opposing the amendment.

Mr. HUMAYUN KABIR: At that time it was suggested that there was a right of appeal against such orders. Sir, this reminds me of a story which is current in Bengal. That is a story of a lawyer who

defended a particular accused who was ordered to be hanged. Without exhibiting the least feeling of discomfiture at this result he went and told his client, "After all, it does not matter very much. You better go and hang now, as ordered, and in the meantime I shall prefer an appeal to the High Court." Now, Sir, it is very easy to say that a person may have a right of appeal but the person who is prosecuted or whose conduct is enquired into would not only suffer social indignity but also a great deal of mental disturbance and also probably have to spend money in running up and down in making enquiries to see that his case is properly defended. Well, Sir, these are things which cannot be compensated by simply having a right of appeal at the end. That is why at the very outset, I was trying to emphasise that both in sub-clauses (*a*) and (*b*), we have the difficulty: whether it be an action which is done under the provisions of this Act or a matter which is done according to the rules made under this Act. Well, Sir, in both these cases if you make such action answerable even if they have been done four years before this Act came into force, this is certainly giving retrospective effect with vengeance. I do not for a moment question what my honourable friend Khan Bahadur Naziruddin Ahmad has said. It is perfectly legal to do many things, but at the same time it is not always desirable to do what it is legal to do; and before the Bill is actually passed, we are here to examine whether it is desirable also. I am glad that Mr. Ross also agrees with me on this point and seems to hold that it is undesirable that a person should be made responsible for actions which he did at a time when they were perfectly legal and which afterwards became illegal on account of a change in the law. These sorts of things ought to be prevented by this House.

Mr. KAMINI KUMAR DUTTA: Sir, it appears that a controversy has arisen about the interpretation of clause 126. It has been said by my friend Khan Bahadur Naziruddin Ahmad that this clause will have retrospective effect; or in other words he wants to say that it will have operation even in respect of acts done prior to this enactment comes into force. As to his interpreation of this clause, I absolutely differ. No doubt, the Registrar has been given the power to investigate into matters for charge and surcharge of acts done within a period of 4 years not prior to the enforcement of this Act, but prior to the date of such audit, inspection, enquiry or report. Apparently, what this clause means is this: that after this legislation comes into operation, if there is any audit, if there is any inspection under sections 75, 81 or 82, the Registrar shall have power to enquire into these matters up to the period of 4 years prior to that audit—it may be one year or it may be six months, extreme limit being 4 years. So, I do not at all agree with the interpretation given of this clause by some honourable members. This clause, in my opinion, is not really of a retrospective nature. Now, the acts in respect of which this power of charge and surcharge

has been given relates to acts which are contrary to the provisions of this Act. So, apparently, this section can only apply to acts which will be contrary to the provisions of this new legislation.

Then, Sir, two phrases have been used, namely, "contrary to the rules" and "by reason of culpable negligence in respect of any prescribed matter". Now, Sir, the terms "rules" and "prescribed" have been defined in clause 2. " 'Rules' means rules for the time being in force made under this Act," and " 'prescribed' means prescribed by rules made under this Act." So, apparently, so far as I can understand, this clause can never apply to any act which was done under the old law and it can only apply to acts to which the provisions of this Act and the rules made under this Act would be applicable. We shall be quite glad to hear what interpretation is given by the Hon'ble Minister.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am entirely at one with the Hon'ble the Leader of the Opposition. His interpretation exactly tallies with what Government thinks about this clause. There is no question of retrospective effect being given and it can never be given, so far as the provisions of a substantive law is concerned. I was explaining to the House about the procedure but then the question was put by the Hon'ble Leader of the European Group, Mr. Ross, if I had that in view. I explained that I never intended to give it any retrospective effect. Sub-clause (*1*) will make it amply clear that when an audit has been performed under sections 75, 81 or 82 of this Act and when things appear as have been mentioned in the sub-clause, then an action can be taken. There is no question of retrospective effect being given. Four years has been mentioned because that is the maximum period. That is with regard to audit and if anything has happened beyond a period of four years, that will not be taken into account. Therefore, I submit, we have not made any mention of retrospective effect being given to it.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I am afraid, Sir, that the reply given by the Minister is not at all to the point. Khan Bahadur Ataur Rahman has cited a concrete instance. He has said that if, for example, just after the Act is passed within one year a certain defect is found that some payment has been made to a person who had not obtained succession certificate. According to this Act no payment can be made to any heir unless a succession certificate has been obtained. So, according to the old law there will be no breach, but according to the present law there will be breach. So, according to the present Act it will be a breach and if he is hauled up for that breach, then it will be anomalous. He did a thing in good faith according to the law then prevailing. It was all right; but

according to the law now made it will be a breach. What is provided here is that if it be a breach according to the law now made, there could be an enquiry against him and he could be made liable for making good any loss which might have occurred to the society. I beg to suggest, therefore, that the provision contained in sub-clause (*a*), namely, "made or authorized any payment which is contrary to the provisions of this Act or to the rules or by-laws in force at the time the payment was made" has to be corrected. Some sort of amendment is necessary. So, I propose an amendment to this sub-clause; but it may be left over for further consideration by the Minister, if the Minister so wants. Otherwise, it will remain an anomaly.

Rai Sahib JATINDRA MOHAN SEN: We should like to have a little time to consider this short-notice amendment, Sir.

Mr. LALIT CHANDRA DAS: On a matter of information, Sir. I was trying to understand what the Hon'ble Minister has said but I could not understand.

Mr. PRESIDENT: You cannot ask him to make another speech to explain the speech he has made. That will not be allowed.

Mr. Mullick, Khan Bahadur Ataur Rahman put a question to you detailing a probable case of payment contrary to the provisions of the proposed enactment but which was not so previously. You may reply to that concrete question.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I think Khan Bahadur Saiyed Muazzamuddin Hosain tried to meet the point by suggesting an amendment. I will only suggest to him and to the House whether or not the clause as it stands does meet the point that has been raised by Khan Bahadur Ataur Rahman. For, as I submitted a moment ago, we do not think of any retrospective effect being given to the provisions of this Act, when we say "payment made or authorised which is contrary to the provisions of this Act or to the rules or by-laws". Therefore, when we say "payment made or authorised which is contrary to the provision of this Act or to the rules or by-laws," I submit that when this Act comes into operation then this breach can be thought of. But we cannot think of breach of the provisions of this Act when it has not come into operation at all.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN. On a point of information. I want to know from the Hon'ble Minister whether there will be an enquiry against any person who has been found to have committed some breach of the rules which were then in vogue. Are we to take it that if there be any breach against any rules which were

then existing and if it is found in audit enquiry after a year, that payment was made against the rules then in vogue, then there will be no enquiry? If that is the position, then there is no necessity for any amendment.

Mr. PRESIDENT: I find that there is difference of opinion among the members of the different parties as regards the interpretation of this clause. It is no use asking the Hon'ble Minister for his opinion. No amount of assurance from the Hon'ble Minister will be of any avail in a Court of law if the meaning of the section is not clear to the Court. The Court will have to interpret the law according to the words of the section. So, I am agreeable to pass over this clause now. If the Hon'ble Minister, after consultation with the legal experts, think it necessary to suggest alterations in the wordings of this clause, I shall allow him to move a short-notice amendment. For the time being, I postpone further discussion on this clause.

Clause 127.

Mr. PRESIDENT: Clause 127 stand part of the Bill.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I beg to move that in clause 127 of the Bill, after the words "by way of penalty such sum" in line 17, the words "not exceeding ten rupees" be inserted.

Sir, this clause deals with the penalty for certain misdeeds. It has been laid down in this clause that if any fault is found in the course of audit, the Registrar can impose a penalty of such sum as he thinks fit. No definite amount has been laid down in the clause, Sir. In every law the maximum amount of penalty has always been laid down. No law in the country empowers even a Magistrate or a Judge to impose a fine according to his sweet will. I think, therefore, that the amount of fine should be fixed. I may be said that by the rule-making power Government will fix a maximum amount; but I think that it is an accepted principle that with regard to penalty or fine a maximum amount should be fixed and incorporated in the Statute and not left to the rule-making power of the Government or to the Registrar. On a former occasion, when a question like this arose in this House, the Legislature refused to give such power to the Government and decided that the rules framed by the Government should be submitted for approval by the Legislature. Unless this is done, Government may make rules from time to time varying the amount of fine according to their sweet will. So, I think that a maximum amount of fine should be fixed in the Statute and my idea is that the sum of Rs. 10 should be laid down as the maximum.

Mr. PRESIDENT: Amendment moved: that in clause 127 of the Bill, after the words "by way of penalty such sum" in line 17, the words "not exceeding ten rupees" be inserted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I oppose this amendment. If my honourable friend be good enough to look to sub-clauses (*a*) and (*b*), he will find that in the event of such thing happening, the Registrar may, subject to the rules and after affording such person an opportunity to be heard, by an order in writing, direct him to pay a certain penalty. If he reads further on, he will find that whatever the penalty may be imposed it will go to the assets of the society and what the amount of fine should be will depend upon the circumstances of the case. Therefore, if a fixed amount is to be laid down, the circumstances also will have to be laid down in the rules. If any definite circumstance can be laid down, then the maximum penalty could be laid down. But so long as that is not done—and I submit it cannot be done—it is difficult to lay down a maximum penalty. As I have submitted, the penalty will go to the assets of the society and I think that ought to be a guarantee against anything wrong being done.

With these words, I oppose the amendment.

Mr. PRESIDENT: The question before the House is the amendment of Raja Bhupendra Narayan Sinha Bahadur: that in clause 127 of the Bill, the words "by way of penalty any sum," in line 17, the words "not exceeding ten rupees" be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 127 stand part of the Bill.

(The motion was agreed to.)

Mr. KAMINI KUMAR DUTTA: May I submit one thing, Sir? Consideration of clause 71A was held up as Government took time to consider the amendment which I suggested to 71A. Can that clause be taken up to-day?

Mr. PRESIDENT: I shall take it up to-day.

Mr. KAMINI KUMAR DUTTA: Thank you, Sir.

Clause 128.

Mr. PRESIDENT: Clause 128 stand part of the Bill.

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move that in clause 128 of the Bill, for the words "not exceeding twenty-five rupees" in line 16, the words "not exceeding two rupees" be substituted.

Sir, this is a clause which lays down Registrar's powers to enforce the performance of obligations. You will find, Sir, that according to this clause, "the Registrar may call upon any officer of the society whom, in accordance with such principles as may be prescribed, he considers to be responsible for the carrying out of his directions and, after giving such officers an opportunity to be heard, may require him to pay to the assets of the society such sum not exceeding twenty-five rupees as the Registrar may think fit for each day until the Registrar's directions are carried out". So, practically it comes to this that the person concerned will have to pay Rs. 25 for each day: it may amount to any sum—1,000 or 10,000. Therefore, I submit that the fine here imposed is too excessive for an ordinary negligence. The object will be achieved if Rs. 2 is imposed rather than Rs. 25. With these few words, Sir, I ask the House to consider my amendment.

Mr. PRESIDENT: Amendment moved: that in clause 128 of the Bill, for the words "not exceeding twenty-five rupees" in line 16, the words "not exceeding two rupees" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, we have only provided for the maximum: the minimum may be anything; and I do not see any reason why this should be changed. If there is anything wrong or if the Registrar's findings are not satisfactory, there is room for appeal to the District Judge. I oppose this amendment.

Mr. PRESIDENT: The question before the House is the amendment of Rai Bahadur Manmatha Nath Bose: that in clause 128 of the Bill, for the words "not exceeding twenty-five rupees" in line 16, the words "not exceeding two rupees" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 128 stand part of the Bill.

(The motion was agreed to.)

Clause 129.

Mr. PRESIDENT: Clause 129 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 129 of the Bill, for the two capital letters in the words "Co-operative Society" in line 2, two respective small letters be substituted.

Sir, my amendment has created some amount of amusement, I do not know why. I believe the expression "co-operative society" has always been used with small letters. I have suggested this amendment just to maintain the uniformity.

Mr. LALIT CHANDRA DAS: On a point of order, Sir. Cannot these small things be done by the Secretary?

Mr. PRESIDENT: I have given my ruling on this point before.

The question before the House is the amendment of Khan Bahadur Naziruddin Ahmad: that in clause 129 of the Bill, for the two capital letters in the words "Co-operative Society" in line 2, two respective small letters be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 129, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 130.

Mr. PRESIDENT: The question before the House is: that clause 130 stand part of the Bill.

(The motion was agreed to.)

Clause 131.

Mr. PRESIDENT: Clause 131 stand part of the Bill.

Mr. LALIT CHANDRA DAS: I beg to move that clause 131 of the Bill, be omitted.

Sir, this clause deals with indemnity and says—"No suit, prosecution or legal proceedings whatever shall lie against the Registrar or any person subordinate to him or acting on his authority or against a Trustee in respect of anything in good faith done or intended to be done under this Act." Now, Sir, there is an Officers' Protection Act which can give protection to officers for acts done in such conditions and that will be sufficient protection for officers acting in good faith. So, no provision like this is necessary.

Mr. PRESIDENT: Amendment moved: that clause 131 of the Bill, be omitted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: As has been expressed by my honourable friend himself that protection is provided for officers under some other measures, I do not see what objection can there be to have a provision like this in the present Bill. I think, Sir, it is necessary to give security to officers who act in good faith.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, my friend Mr. Das has referred to the "Officers' Protection Act." But so far as I know, there is only one Act like this which is "Judicial Officers Protection Act" and I am sure there is no "Officers Protection Act" as has been said by my friend. There is no Act for the protection of officers who are not judicial officers. In these circumstances, I think this clause is necessary. My friend's objection is not on the ground of any inherent defect in the clause but it is on the only ground that it is already provided in another Act. That Act is however non-existent. There are provisions in the Criminal Procedure Code and in numerous other Acts similar to this. So, the objection raised has no real substance and I think the clause should stand and should not be deleted.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Lalit Chandra Das: that clause 131 of the Bill, be omitted.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in clause 131 of the Bill, for the words "the Registrar or any person subordinate to him or acting on his authority or against a Trustee" appearing in lines 2 and 3, the words "any person" be substituted.

Now, Sir, if my amendment is adopted, the section would read thus: "no suit, prosecution or legal proceedings whatever shall lie against any person in respect of anything in good faith done or intended to be done under this Act." As protection is given to the officers, I think similar protection should be given to others who work in the co-operative societies and who are doing work in good faith. When they do or intend to do anything in good faith, they should also be protected.

Mr. PRESIDENT: Amendment moved: that in clause 131 of the Bill, for the words "the Registrar or any person subordinate to him or acting on his authority or against a Trustee" appearing in lines 2 and 3, the words "any person" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am afraid my honourable friend has failed to see the distinction between an officer and a non-official. If an officer acts wrongly and with intention, he stakes his service for it while a non-official acting intentionally has got no stake whatsoever. Therefore, Sir, a distinction has got to be made between an officer and a non-official, while both of them will be acting perhaps in the same way. I submit, therefore, Sir, that the protection that an officer deserves for his activities in good faith does not appear to be necessary so far as a non-official is concerned. I submit, therefore, there is no reason as to why indemnity should be given to everybody in the way suggested and I therefore oppose it.

Mr. PRESIDENT: The question before the House is: that in clause 131 of the Bill, for the words "the Registrar or any person subordinate to him or acting on his authority or against a Trustee" appearing in lines 2 and 3, the words "any person" be substituted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 131 of the Bill, for the word "intended" in line 4, the word "purporting" be substituted.

The only reason for this amendment is to bring this clause into line with similar clauses in other Acts.

Mr. PRESIDENT: Amendment moved: that in clause 131 of the Bill, for the word "intended" in line 4, the word "purporting" be substituted.

The question before the House is: that in clause 131 of the Bill, for the word "intended" in line 4, the word "purporting" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 131, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 132.

Mr. PRESIDENT: Clause 132 stand part of the Bill.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that clause 132 of the Bill, be omitted.

Clause 132 takes away the jurisdiction of civil courts with regard to matters mentioned in sub-clauses (*a*), (*b*), (*c*) and (*d*), namely, with regard to the registration of co-operative society or its by-laws or amendment of its by-laws; the dissolution of a managing committee and the management of the co-operative society on dissolution thereof; any dispute required under section 85 to be referred to the Registrar; or any matter concerned with the winding up and dissolution of a co-operative society.

Now, Sir, this clause provides that whenever any irregularities or illegalities or wrongs will be done in the matter of registration, dissolution and decisions of disputes and with regard to the winding up and dissolution of co-operative societies, there will be no remedy left. My submission to this House is that such a provision should not find a place in an Act like this. Sufficient protection has been given in section

131 to the Registrar or to any person subordinate to him or acting on his authority or against a Trustee in respect of anything done in good faith or purported to have been done under this Act, and there is no reason why the civil remedy against illegalities and irregularities committed in the matter of registration or dissolution or in the decision of disputes, and so on and so forth, should also be taken away. The Registrar by this Act has been made an autocrat and in order to clothe his autocracy absolutely it is provided that none of his acts can be challenged in a court of law. We know, Sir, people even now regard the civil court as a sort of haven where they can go for the purpose of redress of civil wrongs but that right is intended to be taken away by this drastic provision in this Bill. I do not think, Sir, that any case has been made out why the jurisdiction of the civil court should be taken away with regard to these important matters. I have got personal experience with regard to some cases which arose out of registration of co-operative societies and with regard to very many of the by-laws, namely, whether certain by-laws were consistent with the provisions of the Act or whether they were inconsistent with the provisions of the Act. The Registrar thought in one way and the civil court decided in another way. Even such matters went up to the High Court for final adjudication. Therefore, I submit to this House in all seriousness that these matters should not be taken away from the jurisdiction of the civil court.

Mr. PRESIDENT: Amendment moved: that clause 132 of the Bill be omitted.

Mr. NUR AHMED: Sir, I rise to oppose this amendment. Clause 132 is necessary for the smooth and efficient working of the co-operative department. This provision has been inserted in order to prevent persons from resorting to civil court for setting aside any and every order of the Registrar or any other officer. Provisions of this nature are to be found in other Acts also. In the Bengal Municipal Act, there is a similar provision. In some matters the decision of the Municipal Commissioners is final and there is no resort to civil court. If this clause is deleted, I think it will be very difficult to work this department or to exercise any control. The Registrar possesses some powers which he will exercise, I think, judiciously and his orders should be final.

As regards the registration of societies, it is for him to decide which societies will be registered and which societies will not be. There are always two parties to a controversy. If provision for any appeal to civil court is given, as soon as one party will be defeated it will go to the court and haul up the Registrar. If the Registrar is hauled up before the court for any and every case, how it will be possible for him to work? So, I think the provisions of this section are very essential for the good working of the co-operative societies.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I must oppose this amendment. If the honourable member be good enough to peruse the different paragraphs of sub-clause (*1*), he will find that matters mentioned there can never be brought before a court of civil law, for he will see that so far as registration of a co-operative society is concerned, or the dissolution of a managing committee and so on and so forth, they are absolutely matters relating to the internal affairs of a society. I do not understand, Sir, what is the justification for a suggestion of the kind that has been made that even such cases should be brought to the civil court and for what purposes I do not know. I have known of cases, as has been mentioned by the honourable member himself, where for want of such provisions matters have gone to the civil court with the result that the society had to be dissolved because everything came to a standstill and because they could not go on with the administration. I have known of instances also where in the absence of provision of such a character matters relating to the formation of a managing committee of a High English School had to be brought before a court of civil law and the result was that the University of Calcutta had to be dragged into the litigation to defend the decision that the University ultimately gave. I have known of instances where in the absence of a provision of this nature matters relating to the formation of a society under the Societies Act of 1860 it had to be brought before a civil court and the society had to be dissolved. I submit, therefore, that these are matters which require speedy disposal and which are details of internal affairs of the society with regard to which there is no infringement of anybody's civil right and I submit, therefore, that there is no justification for bringing such matters before a civil court. I must oppose this amendment.

Mr. PRESIDENT: The question before the House is: that clause 132 of the Bill be omitted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 132 stand part of the Bill.

(The motion was agreed to.)

Clause 133.

Mr. PRESIDENT: The question before the House is: that clause 133 stand part of the Bill.

(The motion was agreed to.)

Clause 134.

Mr. PRESIDENT: Clause 134 stand part of the Bill.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that after sub-clause (*2*) of clause 134 of the Bill, the following new sub-clause be added, namely:—

"(*3*) All orders passed by the Registrar under sub-clause (*2*) shall be subject to revision by the District Judge."

Sir, by this amendment I propose to provide for a revision before the District Judge who is certainly a competent person to see whether the acts of the Registrar have been legal or not. I may mention in this connection that recently, so far as I remember, an amendment has been passed with regard to the Bengal Agricultural Debtors' Act vesting the District Judge with revisional power to revise the orders of the special appellate courts. This power was not originally in the Agricultural Debtors Act, but as a result of the working of the Act it was found that such a power was necessary because frequently mistakes were committed even by the special appellate officers in dealing with matters arising out of that Act. So, I think, Sir, that as this is a very intricate and important Act, there may be occasions, Sir, when the acts of the Registrar may be required to be revised by the District Judge. So, I have provided by this amendment that power should be given to the District Judge to revise the orders of the Registrar.

Mr. PRESIDENT: Amendment moved: that after sub-clause (*2*) of clause 134 of the Bill, the following new sub-clause be added, namely:—

"(*3*) All orders passed by the Registrar under sub-clause (*2*) shall be subject to revision by the District Judge."

Mr. NUR AHMED: Mr. President, Sir, I rise to oppose the amendment. With all respect for my learned friend, I find he has got a special love for the District Judge and sometimes for the Collector. He is a learned lawyer of reputation, but I am surprised to see that he has moved this amendment. He wants to create a peculiar sort of forum, but we have never heard that a revision can be done by any outside authority. It is generally for the authority which has passed the order to review or revise its own decision. I could have understood if the power of appeal had been given, but he uses the word "revision". It is against the provisions of the Civil Procedure Code that the power of revision should be given to an outside agency. Here, the power of revision has been given to the Provincial Government and I cannot understand how there can be another revision after a revision.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I must oppose this amendment. All that I need say in reply to the amendment that has been so seriously moved by my honourable friend is that there is certainly a distinction between the administrative acts and acts

of a judicial character. Sir, these are matters which deal with the administration of co-operative societies, and when the Registrar acts in a way, the Provincial Government have the power under sub-clause (*1*) to review or revise the order made by the Registrar, and any order passed by a subordinate authority can be similarly reviewed or revised by the Registrar. The analogy that my friend has drawn between the Bengal Agricultural Debtors Act and this Act does not hold good. Under the former Act, Sir, the appellate officer has got to deal with civil rights so far as the liabilities of the agricultural debtor to his creditor are concerned, and there are certainly very important questions of civil rights of individuals which are involved. And, as the honourable member has said, experience has shown that a power of that nature ought to be given to the District Judge. It was from that point of view that Government came forward before this Legislature who were good enough to pass a measure to that effect. But I submit that this does not stand any comparison to the provision for which we are now legislating and that therefore there is hardly any justification for an amendment of this nature which has been brought forward before this House. Sir, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that after sub-clause (*2*) of clause 134 of the Bill, the following new sub-clause be added, namely:—

"(*3*) All orders passed by the Registrar under sub-clause (*2*) shall be subject to revision by the District Judge."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 134 stand part of the Bill.

(The motion was agreed to.)

Clause 135.

Mr. PRESIDENT: The question before the House is: that clause 135 stand part of the Bill.

(The motion was agreed to.)

Clause 136.

Mr. PRESIDENT: Clause 136 stand part of the Bill.

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move that in sub-clause (*1*) of clause 136 of the Bill, the following be added at the end, namely:—

"All offences committed under this Act enumerated in the fifth schedule shall be appealable in the manner laid down in the Code of Criminal Procedure, 1898."

Sir, clause 136, I mean the first paragraph of this clause, runs thus: "No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act." I take it that the intention is that there should be an appeal against the decision of these officers, but I do not find any provision anywhere to that effect. In this connection, I may be permitted to say that some such difficulty had arisen under the Bengal Tenancy Act. When a particular section was first enacted it was so understood by several of us that there would be an appeal against an order passed under that section. But the District Judge as well as the High Court have held that there is no such appeal. Therefore, in order to make the position clear, I have suggested this amendment, and I submit that if it be the intention that there should be an appeal against the decision of the Presidency Magistrate or a Magistrate of the first class, then it is necessary to have a provision like the one suggested in my amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 136 of the Bill, the following be added at the end, namely:—

"All offences committed under this Act enumerated in the fifth schedule shall be appealable in the manner laid down in the Code of Criminal Procedure, 1898."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I do not think that there is any necessity to have an amendment of this nature. When we say that the offence is to be tried by a Presidency Magistrate or a Magistrate of the first class, it means that he will have to follow the procedure laid down in the Criminal Procedure Code, 1898, and it follows as a matter of course that the procedure laid down there will be adopted. Whether there ought to be an appeal or not will depend upon the nature of the sentence passed. There are orders against which there are no appeals and there are orders against which there are appeals. Therefore, there is absolutely no need to have an amendment of this nature added to the clause. Sir, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 136 of the Bill, the following be added at the end, namely:—

"All offences committed under this Act enumerated in the fifth schedule shall be appealable in the manner laid down in the Code of Criminal Procedure, 1898"

(The amendment was negatived.)

Mr. PRESIDENT: There has been a request from the Leader of the Opposition to take up clause 71A to-day. I shall take up that clause now.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the amendment proposed by the Leader of the Opposition, Mr. Kamini Kumar Dutta, has been very carefully examined for several days by our party, and the position, as I understand it, is this. My learned friend thinks that if a man incurs debts and then places his property in the hands of the society, he may thereby cheat his creditors if this provision stands. We have prohibited sale of a member's properties and hence a creditor will be defeated. That is the fear which works in the minds of my learned friends of the Congress Party. According to them, the creditor must be protected and he should not be allowed to be cheated. But, Sir, the position seems to us to be that the creditor is sufficiently protected—where such protection is needed as would appear from certain legal considerations which I shall submit at once. The difficulty really arose out of the word "acquisition" in sub-section (*1*) to the proposed new section 71A. To a question put by my friend, Mr. Lalit Chandra Das, the honourable mover of this amendment, said that this acquisition also would include the transfer of a property belonging to a member to the society. Then it was argued that if, before delivering the property to the society, he had incurred any debt, then by delivering the property to the society, and the prohibition of the sale of the property by this clause, he would be cheating his creditors. But, Sir, I submit that these fears are not justified, and I shall explain our reasons. If the acquisition is compulsory, the fear does not arise because in compulsory acquisition, public notices are given to all parties interested, all their claims and interests are heard and considered and compensations are paid to all parties having any interest and the property so acquired is free from any claims or charges. We have, therefore, no fear in a compulsory acquisition and we must, therefore, eliminate compulsory acquisition altogether from our consideration. It is only when there is a private acquisition that the question can possibly arise. We must, therefore, carefully consider the legal implications in a private acquisition by a colonization society. With regard to private acquisition, loans of two different classes should be separately considered; one is unsecured loan and the other secured loan. With regard to the unsecured loan, the position is absolutely clear that the society cannot be held responsible for such loans because the creditor has no charge or lien on the property. So, if a colonization society acquires the land privately or otherwise, the society becomes a *bona fide* purchaser for value without notice. So, like an ordinary honest purchaser, if the society acquires the property, it is absolutely protected because the transfer is not a fraudulent one, for in order to be fraudulent, there must be an intention, on both sides, to commit a fraud. So, any anxiety to secure the position of unsecured creditors is needless and would be positively mischievous, as it would lead to the setting up of bogus loans. So, the question of unsecured

loans does not really arise and must be eliminated from our consideration.

We are, therefore, concerned with secured loans only. The position of secured loans is this. So far as these transactions are concerned, secured loans are confined to mortgages. Now, the question is: when a certain man mortgages his property with a third party and then throws it into the common stock so as to form a colonization society, what is the position of the mortgagee? If the society acquires the property privately, and we are confined to this case only, then I submit that the mortgage is not extinguished. I submit on the other hand that it remains in full force and the society will be bound to pay the mortgage money, because anybody who takes a mortgaged property stands in the shoes of the mortgagor. So, I submit that the co-operative society would be bound to liquidate the mortgage debt and no law can affect the creditor's rights. There is, therefore, no cause for fear.

Then again, we must carefully analyse the prohibition in sub-section (4) of the proposed section. All that is prohibited there, is that no land should be "attachable". I respectfully draw the attention of the House to this important word. By this sub-clause we only prevent an attachment. An attachment may be before judgment or in execution of a decree. I submit there is no attachment in mortgage suits or mortgage decrees. What is an attachment? It is a prohibitory order on the judgment-debtor not to transfer the property without permission of the Court. If there is any transfer after attachment, such transferee takes subject to the decretal dues. In a mortgage there is no attachment. It is well known that when we institute a suit for a mortgage, the property is already charged by reason of the mortgage. So, according to a well-known rule of procedure, we never attach properties either in a suit or in any execution of a decree for mortgage. Attachment arises only in a case of money decree or in a money suit. We strike at suits and decrees for unsecured loans only when we prevent attachment. We do not prevent sale directly. We only do so by preventing attachment. If we prevent attachment, we prevent those sales only which are conditional upon attachment. All sales which must be preceded by attachment have been prohibited. We simply prohibit attachment. We do not, therefore, prohibit sales under mortgage decrees. In these circumstances, the question of mortgage does not at all arise. It would, therefore, appear from these two considerations, that the co-operative society would be bound to liquidate the debt and we prohibit attachment only, and the prohibition of attachment does not affect the position of the mortgagee. In this view, I submit, no prior mortgagee will be at all affected.

Sir, some trouble seems to arise from the imposing opening words of the proposed new clause. The opening words are: "Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force." These imposing words may strike terror in many an honest heart and might lead them to conclude that we are riding rough-shod over all laws and all rights. But these words lead up and are subject to one condition and one condition alone. What is that condition we are here providing? It is only this, that we prevent attachment, and this prevention of attachment will be notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force. So, whatever the law may be, whether in this Act or elsewhere, we prohibit attachment in spite of them. But we do not prevent any other act. So, by the expression, "Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force", we do not prevent sale where no attachment is necessary. Under these circumstances, I submit that this clause will not at all affect mortgages created before and subsisting at the date of the transfer. Their position will remain unaffected, and the proceedings in execution of a mortgage decree will not in the least be affected.

Besides, the proposed sub-section (*4*) merely prohibits attachment of the property of a *member*. It does not prohibit attachment or sale of the property of a *society*. But by acquisition the property belongs to the society and not to the member. The mortgagee needs only to proceed against the society. The sub-section does not prohibit attachment of the property of a society. So, in any case, the remedy of a mortgagee remains totally unaffected by the proposed prohibition.

On these considerations, I submit that the amendment is unnecessary and uncalled for.

Mr. PRESIDENT: Order, order. You are speaking on the amendment to the amendment of Mr. Mesbahuddin Ahmed. Let us first see what happens to that amendment.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I gave a very close attention to the suggestion made by the honourable Leader of the Opposition and to the proposition, as has just now been explained by my friend Khan Bahadur Naziruddin Ahmad. The only anxiety that Mr. Dutta and Mr. Lalit Chandra Das felt was with regard to the secured debts of a member with respect to any land that he would have before he became a member of a society of this character. Sir, with respect to that, as has now been explained, the society perhaps will have to redeem all his previous debts or the debts will follow the lands and therefore there need be no apprehension so far as that point is concerned.

But, with regard to the other question, namely, the question of acquisition of fresh lands and then making the same over to a society from which individual members will have the right to take lease, I submit that it is outside the scope of anybody's apprehension. Indeed, the other day it was also felt that my honourable friends did not have anything to say so far as that particular matter was concerned. I submit, therefore, Sir, that we are entirely at one with that point of view, but the amendment suggested is not necessary in view of the explanation that we have offered to the House and I would only beg of the Hon'ble the Leader of the Opposition to be good enough to withdraw his amendment.

Mr. KAMINI KUMAR DUTTA: Sir, may I mention one matter? I had a talk with the other party and I have proposed some alteration in the amendment and if the matter is postponed for to-morrow, it may be that we may come to some agreement.

Mr. PRESIDENT: Order, order. The House stands adjourned till to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 12th September, 1940.

Members absent.

The following members were absent from the meeting held on the 11th September, 1940:—

(1) Mr. Kader Baksh.

(2) Mr. Narendra Chandra Datta.

(3) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(4) Mr. Latafat Hossain.

(5) Mr. Mahomed Hossain.

(6) Khan Bahadur Syed Muhammad Ghaziul Huq.

(7) Maulana Muhammad Akram Khan.

(8) Mr. W. B. G. Laidlaw.

(9) Mr. Naresh Nath Mookerjee.

(10) Dr. Radha Kumud Mookerji.

(11) Khan Bahadur Mukhlesur Rahaman.

(12) Khan Bahadur M. Shamsuzzoha.

B. G. Press—1940-41—8415A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 12th September, 1940, at 2-15 p.m. being the twenty-ninth day of the Second Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Ban on Government servants joining political organisations.

109. Rai Sahib JATINDRA MOHAN SEN: (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to state if there is any bar to a whole-time Government servant or part-time Government servant, such as, Government Pleader and Public Prosecutor, becoming members of the Muslim League, the Indian National Congress or the Hindu Mahasabha, by signing their respective creeds?

(*b*) Are the previous activities of a Muslim Leaguer a qualification and the previous activities of a Congress man or a Hindu Mahasabhite a disqualification for appointment to Government service?

(*c*) Do the Government go upon this as one of the considerations in making the appointment?

(*d*) Have the Government given instruction to the heads of the district administration to ascertain the political views of the candidates before selecting them for appointment?

(*e*) Why are the persons holding different political or social views differently treated in the matter of appointment?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) Rule 23 (1) (*i*) of the Government Servants' Conduct Rules lays down:—"No Government servant shall take part in or subscribe in aid of or assist in any way any political movement in India or any political movement relating to Indian affairs"; but this rule must be read as subject to the provisions of the Bengal Legislature (Removal of Disqualifications) Act, 1937.

(*b*) to (*d*) No.

(*e*) They are not.

Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister be pleased to state if membership in all these bodies amounts to rendering assistance to such bodies?

The Hon'ble Mr. H. S. SUHRAWARDY: I suppose it does.

Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister be pleased to state if payment of membership fees to any of such bodies amounts to aiding such bodies?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, this is an extremely abstruse question. I thought the answer was very plain. It seems that the honourable member's perspicacity has made him ask this question and probably there is some significance attached to this question which I am unable to fathom.

Rai Sahib JATINDRA MOHAN SEN: Sir, the question is very simple—whether or not the payment of membership subscription amounts to payment of subscription in aid of such bodies?

The Hon'ble Mr. H. S. SUHRAWARDY: Does the honourable member seriously wish to convey to the House that he cannot supply the answer?

Rai Sahib JATINDRA MOHAN SEN: That is another question. I want a direct answer.

The Hon'ble Mr. H. S. SUHRAWARDY: The answer is as plain as a pikestaff. It does. I am surprised that the honourable member should have asked this question.

Rai Sahib JATINDA MOHAN SEN: Will the Hon'ble Minister be pleased to state if a Public Prosecutor by becoming a member of these political bodies could pay membership fee?

The Hon'ble Mr. H. S. SUHRAWARDY: It would seem that he can.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if he could become such a member before this Government came into power?

The Hon'ble Mr. H. S. SUHRAWARDY: No, I do not think so. I think he is now entitled to become a member since the passing of the Bengal Legislative (Removal of Disqualifications) Act, 1937.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to explain how the Bengal Legislature (Removal of Disqualifications) Act, 1937, has got anything to do with a Public Prosecutor becoming a member of a private political party?

The Hon'ble Mr. H. S. SUHRAWARDY: I do not know what is the meaning of a private political party.

Mr. HUMAYUN KABIR: I mean of a political party outside the Legislature.

The Hon'ble Mr. H. S. SUHRAWARDY: A pleader, Government Pleader or Public Prosecutor, was in the same position as a whole-time Government servant but this disability has been removed by the Bengal Legislature (Removal of Disqualifications) Act, 1937, and he can now stand for election for membership of the Legislature. Unless he can be a member of a political party, he has probably little chance of success.

Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister be pleased to refer me to the section of the Bengal Legislature (Removal of Disqualifications) Act, 1937, by virtue of which a Public Prosecutor or Government Pleader is entitled to become a member of a political body?

The Hon'ble Mr. H. S. SUHRAWARDY: I would ask the honourable member to read section 2 (*b*).

Rai Sahib JATINDRA MOHAN SEN: Does that section refer to any such matter? It says, "An office which is not a whole-time office remunerated either by salary or by fees". Has that got anything to do with the question whether such part-time Government servant is entitled to become a member of a political body?

The Hon'ble Mr. H. S. SUHRAWARDY: Again, Sir, the honourable member asks questions which are so clear in the answer. The honourable member has read that section 2 (*b*) refers to officers who are not whole-time officers of Government and who are paid either by salary or by fees. Such persons may stand for membership of the Legislature. If they can stand for membership of the Legislature, they are political persons; if they are political persons they can be members of political bodies. If they do not become members of political bodies, there is no chance of their being returned to the Legislature. If they want to have any chance of becoming members of the Legislature, they must become members of political bodies; and if they must become members of political bodies, they are entitled to become members of political bodies.

Mr. PRESIDENT: Questions No. 110 and 111 are postponed as the Hon'ble Home Minister who is to reply to them is not present.

The House will now resume further consideration of the Bengal Co-operative Societies Bill, 1940.

The Bengal Co-operative Societies Bill, 1940.

Mr. LALIT CHANDRA DAS: I beg to move that sub-clause (*3*) of clause 136 of the Bill, be omitted.

Sir, clause 136 of the Bill refers to cognisance of offences. So far as sub-clauses (*1*) and (*2*) are concerned, they are all right. In those two clauses we find that "(*1*) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act; and (*2*) for the purposes of the Code of Criminal Procedure, 1898, every offence under this Act shall be deemed to be non-cognisable." Then, Sir, we come to sub-clause (*3*) where it is said "(*3*) No prosecution shall be instituted under this Act without the previous sanction of the Registrar".

That is a clause which really stands in the way of prosecuting a person who may be guilty of misfeasance or embezzlement and so on and so forth. We had tabled a new clause by which we wanted that the liquidator might be made liable for action in a court. It was said by the Hon'ble Minister then that it was not necessary inasmuch as action could be taken under the ordinary law. That was his argument when we pressed an amendment making the liquidator liable for action under the law. But now, Sir, it appears that by putting in this sub-clause (*3*) the general power of the person concerned in any action is being taken away, a person who may be prejudicially affected by any action of the officers who will be working under the orders and direction of the Registrar. Sir, they should not be given immunity as suggested by sub-clause (*3*): they should be placed in the general category to take their stand under the ordinary law and should not be kept under the protection of the Registrar. With these words, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that sub-clause (*3*) of clause 136 of the Bill, be omitted.

Mr. NUR AHMED: Sir, I rise to oppose this amendment of my friend Mr. Das. I fail to understand why he is so anxious to cut down sub-clause (*3*) of this important clause. He seems to be keen on curtailing the power of the Registrar. I find that some of the honourable members of this House are suffering from a disease which might be styled as "Registrar-phobia". I do not know whether Mr. Das has

developed that disease by this time. He has quite misunderstood the purpose of this safeguard. Clause 136 deals, as a matter of fact, with safeguards in case frivolous and unnecessary harassments are perpetrated on the honorary workers. In this connection, I would refer the honourable member to Schedule V which deals with the offences to be punished under this Act. The offences are enumerated in the Fifth Schedule and lest any person should be prosecuted without any sanction of the Registrar or of any other officer of the Co-operative Department, this safeguard is provided so that the papers relating to the offence of the persons and other things may come through the Registrar in order that he may consider whether it is a case for prosecution and whether the person concerned is liable for prosecution and whether the prosecution will succeed or fail. With that end in view, the Registrar is vested with this power. There are other offences enumerated in the Fifth Schedule, *e.g.*, wilful neglect or refusal to do any act, etc., and it should be for the Registrar to decide whether it is really a case of wilful neglect: there are also other offences which will be punishable under this provision. Unless these safeguards are provided, no honorary worker will come forward to join the movement. There ought to be another safeguard which has been omitted, namely, that the Registrar should call the parties concerned with a view to examine the real position. This safeguard should be introduced in the interest of the movement. But I fail to understand why Mr. Das wants to do away with the safeguard already provided. Sir, I oppose the amendment.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose this amendment. But I think I should not tire the House with a long speech in doing so, because I believe my honourable friend Mr. Nur Ahmed has given the reason. This is an additional safeguard for a person prosecuted for taking his trial for committing an offence under this Act. When the matter will be placed before the Registrar, he will have an opportunity of examining the position before a drastic action of this nature can be finally adopted. With these words, I oppose the amendment.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Lalit Chandra Das: that sub-clause (*3*) of clause 136 of the Bill, be omitted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 136 stand part of the Bill.

(The motion was agreed to.)

Clause 137.

Mr. PRESIDENT: The question before the House is: that clause 137 stand part of the Bill.

(The motion was agreed to.)

Clause 138.

Mr. PRESIDENT: The question before the House is: that clause 138 stand part of the Bill.

(The motion was agreed to.)

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, may I make one suggestion at this stage? The amendments which have been passed over may kindly be taken up now.

Mr. PRESIDENT: All right.

The question before the House is: that clause 2 stand part of the Bill.

(The motion was agreed to.)

Clause 47.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in sub-clause (*1*) of clause 47 of the Bill, after the words "as rent" occurring in lines 6 and 7, the words "or any secured debt," be inserted.

Sir, the amendment itself shows for what purpose it is moved.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 47, of the Bill, after the words "as rent" occurring in lines 6 and 7 the words "or any secured debt", be inserted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am sorry I have to oppose this. If we are to accept an amendment of this nature, it will frustrate the very purpose for which this clause has been inserted. Sir, the various sub-clauses of this clause will make it apparent that we cannot accept an amendment of this nature.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 47 of the Bill, after the words "as rent" occurring in lines 6 and 7 the words "or any secured debt", be inserted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I be permitted to move a short-notice amendment?

Mr. PRESIDENT: Before any short-notice amendment is moved, the Chair must be provided with a copy of the amendment. For, it is difficult to follow an amendment without a copy.

Khan Bahadur NAZIRUDDIN AHMAD: We quite realise the difficulty, Sir, but we are not entirely responsible for it. I am sorry for the inconvenience caused.

(A copy of the amendment was handed over to the Chair.)

Mr. PRESIDENT. The short-notice amendment of Khan Bahadur Naziruddin Ahmad runs as follows:—

> That in clause (*f*) of sub-clause (*1*) of clause 47, after the word "building" occurring in line 5, the words "or the portion thereof" be inserted, and in sub-clause (*2*) of clause 47 of the Bill, the words, brackets and figures "clauses (*a*), (*c*), (*d*), (*e*) or (*f*) of section (*1*)" be omitted.

Rai Sahib JATINDRA MOHAN SEN: May I speak on a point of order, Sir? I do not want to raise an objection but I want to have a convention established in this House that when an honourable member moves a short-notice amendment, he should be given an opportunity to be heard. If that convention is accepted——

Mr. PRESIDENT: Order, order. The Chair is not prepared to accept any such convention.

Rai Sahib JATINDRA MOHAN SEN: Then I object, Sir.

Mr. PRESIDENT: The question before the House is: that clause 47 stand part of the Bill.

(The motion was agreed to.)

Clause 56.

Mr. PRESIDENT: Mr. Ross, you now move your amendment No. 319B.

Mr. J. B. ROSS: Sir, I would prefer to move 319A instead of 319B.

Mr. PRESIDENT: All right; you move it.

Mr. J. B. ROSS: Sir, I beg to move that in clause 56 of the Bill, in sub-clause (*2*), after the words 'reserve fund" occurring in line 2, the words "such proportion being" be inserted and the words "or such other proportion" be omitted; and for the word "society" occurring in sub-clause (*2*), the word "societies" be substituted.

Sir, I have moved this amendment because the Hon'ble Minister made a statement in the House when this clause was being discussed that the object of this clause was to ensure that not less than 25 per cent. of the profits would be placed to reserve but that the Government would retain power to increase that percentage if they chose to do so. The clause, as drafted, however, does not express that meaning and would really enable Government to prescribe a lesser percentage than 25 per cent., if they choose to do so. Therefore, I have moved this amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 56 of the Bill, after the words "reserve fund" occurring in line 2, the words "such proportion being" be inserted, and the words "or such other proportion" be omitted; and for the word "society" occurring in sub-clause (*2*), the word "societies" be substituted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: May I request you to read out the whole section as it would stand with this amendment?

Mr. PRESIDENT: Sub-clause (*2*) of clause 56 will then read as follows:—

"(*2*) Of the net profits of a co-operative society in each year there shall be carried to the reserve fund such proportion being not less than twenty-five *per centum* as may be prescribed for such society or class of societies."

Rai Sahib JATINDRA MOHAN SEN: Sir, I support this amendment because this amendment will practically have the same effect which I wanted to have by my amendment, namely, that "or such other proportion as may be prescribed for such society or class of society" be omitted. The intention which I had has now been given effect to by this amendment of my honourable friend, Mr. Ross. So, I wholeheartedly support this amendment.

Mr. KAMINI KUMAR DUTTA: Sir, I am sorry that I cannot follow how this amendment will improve the meaning of the clause at all. The amendment suggested by Rai Sahib Jatindra Mohan Sen was far better and would have effected a real improvement to the clause. The present amendment makes it beautifully vague and also unworkable.

Khan Bahadur NAZIRUDDIN AHMAD: May I have your permission, Sir, to move another amendment of which I have sent a copy to you?

Mr. PRESIDENT: There has been a suggestion to substitute the word "higher" in place of the word "other".

Mr. HUMAYUN KABIR: Sir, When I wanted to move the other day an amendment exactly of that nature, you ruled it out. I wanted to move it as a short-notice amendment but you did not allow me to do so.

Mr. PRESIDENT: Is this amendment, which purports to substitute the word "higher" in place of the word "other", acceptable to Mr. Ross?

Mr. J. B. ROSS: Yes, Sir.

Mr. KAMINI KUMAR DUTTA: It makes the clause clearer.

Mr. PRESIDENT: In that case, I would ask Mr. Ross to withdraw the amendment he has moved.

Mr. J. B. ROSS: Sir, I ask the permission of the House to withdraw my amendment on condition that the amendment with the word "higher" in place of "other" be moved.

(The short-notice amendment of Mr. J. B. Ross was then, by leave of the House, withdrawn.)

Mr. J. B. ROSS: Sir, I beg to move that in sub-clause (*2*) of clause 56 of the Bill, for the word "other" in line 3, the word "higher" be substituted.

Mr. PRESIDENT: I take it that there is no objection to this short-notice amendment?

(No objection was raised.)

Mr. PRESIDENT: The question before the House is: that in sub-clause (*2*) of clause 56 of the Bill, for the word "other" in line 3, the word "higher" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 56, in sub-clause (*2*), for the word "society" occurring at the end, the word "societies" be substituted.

Mr. PRESIDENT: The question before the House is: that in clause 56, in sub-clause (*2*), for the word "society" occurring at the end, the word "societies" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 56, as amended, stand part of the Bill.

(The motion was agreed to.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With your permission, Sir, I desire to move my amendment in a slightly modified form.

Mr. PRESIDENT: What is your amendment?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, my amendment is that after sub-clause (*3*) of clause 57, the following sub-clause be inserted, namely:—

"(*4*) No contribution under clause 58 shall be paid otherwise than out of the profit actually realised."

Sir, I had previously in my mind that with regard to both the clauses 58 and 59, nothing should be given except out of the profit actually realised. Now I leave out clause 59. In my amendment No. 329 of the consolidated list, I had stated that the contribution should be paid from the profit actually realised but now I restrict it to clause 58 only. I move part of it only.

Mr. PRESIDENT: I take it that there is no objection to the following short-notice amendment of Khan Bahadur Saiyed Muazzamuddin Hosain that after sub-clause (*3*) of clause 57 of the Bill, the following sub-clause be inserted, namely:—

"(*4*) No contribution under clause 58 shall be paid otherwise than out of the profit actually realised."

(No objection was raised.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, with your kind permission, I beg to move that after sub-clause (*3*) of clause 57, a new sub-clause to the following effect be added, namely:—

"(*4*) No contribution shall paid otherwise than out of the profits certified by the audit officer to be actually realised."

Sir, the reason for my moving this amendment is that we want that contribution to charities and other purposes should be made if we are sure that we have made a profit, and that profit has actually come to the coffers of the bank. We should not make any charge upon it without being sure whether the money has actually been realised or not. I think it is very necessary and should be accepted by the House without any objection.

Mr. PRESIDENT: The question before the House is: that after sub-clause (*3*) of clause 57, the following sub-clause be inserted, namely:—

"(*4*) No contribution under clause 58 shall be paid otherwise than out of the profit actually realised."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is that clause 57, as amended, stand part of the Bill.

Mr. J. B. ROSS: May I make a submission in regard to this clause before you put it to the vote? Sub-clause (*3*) of clause 57 provides "that after the reserve fund has been set aside, as laid down in sub-clause (*2*) of clause 56, and subject to the provisions of sub-clause (*2*) of this clause, the balance of the profit together with any undistributed profits of past years, if any, may, to such extent and under such conditions as may be prescribed, be distributed as dividend among the members or paid as bonus or remuneration to a member or employee for any specific service rendered to the society." That means that having provided for the reserve fund, you are then at liberty to distribute the balance of the profit as bonus or dividend. But then, after you have done that, you come to the next clause. Under that clause, you must set aside five per cent. of the profit for co-operative education or for such other co-operative purposes as may be prescribed. The two do not go together. In one clause, you say that you may distribute everything and in the next you say that five per cent. must be reserved. It would be much more to the point if these two clauses were reversed, that is to say, if the number of clause 57 were altered to 58 and that of clause 58 to 57. Sub-clause (*3*) of present clause 57 should also include a proviso in reference to the compulsory contribution for educational purposes prescribed in clause 58 (*a*). Sir, I do not know whether I have made myself clear. My submission is that the clause providing for distribution of profit should definitely prescribe that the provisions of clause 58 (*a*) regarding compulsory contribution should be satisfied before any distribution can be made.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, it is more or less a drafting question. So far as the principle is concerned, I do not think we differ from one another. The House has already agreed to the other clause. I do not know whether it is possible at this stage to renumber these clauses; but even then I should have thought that there was nothing wrong if we were to keep them in the way in which they were put. For, so far as the statutory obligation is concerned, it has been mentioned in clause 57 and in part of clause 58. I

do not think that any difficulty is going to be created. So far as the idea of my friend, Khan Bahadur Saiyed Muazzamuddin Hosain, is concerned, it is perfectly clear that whatever sum is to be carried to this fund, must be done out of the profits actually realised.

Mr. HUMAYUN KABIR: Sir, I do not think that the answer which has been given by the Hon'ble Minister is satisfactory or has met the point, because in section 57 (*3*) it is quite clear that the bonus and the dividend shall be distributed out of the net profits, but at the same time, as pointed out by Mr. Ross, five per cent. for charity is a compulsory charge under section 58. After the amount has been distributed, where is the money for this charge to come from? In sub-clause (*3*) of clause 57, it is provided that subject to the provisions of sub-section (*2*) of section 57, and after the stipulated proportion has been carried to the reserve fund, there can be a dividend. Unless the further exception is made that the amount required under section 58 for charitable purposes also must be deducted, the clause remains incomplete; and the answer which has been given by the Hon'ble Minister does not at all meet the objection.

Mr. PRESIDENT: The question before the House is: that clause 57, as amended, stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: As regards the other suggestion of Mr. Ross, I think there would be no objection to accept the motion for interchanging the clauses, because what we accepted is that clauses 57 and 58 stand part of the Bill. We do not go against that decision, but we merely interchange the clauses. So, there should be a formal motion to that effect, if such interchange of the clauses is considered necessary in the interest of better drafting of this clause.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to point out that we have made exception in the case of sub-clause (*2*) of clause 56. To the items mentioned there, also items of 58 and 59 will have to be added. After these changes have been made, whatever, remains will be distributed as dividend.

Mr. PRESIDENT: Order, order. It will be for the House to decide whether such amendment should be accepted. All that I am told is: that according to expert advice, an interchange of the clauses is necessary for the sake of better drafting. If it is formally moved in the House that clause 57 be changed into clause 58 and *vice-versa*, I shall allow such an amendment.

Mr. J. B. ROSS: On a point of information, Sir. The reversal of the number of clauses will not complete the transaction, because sub-clause (*3*) of clause 57 does not provide for the compulsory contribution which must be made under clause 58(*a*) and that will have to go into sub-clause (*3*) of clause 57 before it can be complete. Then the position of the clauses could be reversed and everything would be in order. It will not be right if we pass clause 57 as it is without making this change, because we can still, under clause 57, pay out the profits as dividend or bonus without having regard to the provisions of clause 58(*a*).

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: In view of the difficulty mentioned by two of my friends, we shall better have this in the form in which it stands at present; and if we find that anything further is necessary, we shall approach the House with an amendment.

New Clause 71A.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, with regard to this new clause 71A, I have a very formal short-notice amendment. Sir, I beg to move that in the proposed new section 71A, the words "under section 69" occurring in sub-clauses (*2*) and (*4*) be omitted.

Mr. PRESIDENT: Is there any objection to this short notice amendment being moved?

Mr. HUMAYUN KABIR: Yes, Sir, we have objection.

Mr. PRESIDENT: The question before the House is: that after clause 71 of the Bill, the following new clause be inserted, namely:—

Restriction on transfer of possession of and interest in land held under a co-operative society.

"71A. Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force—

(*1*) a member of a co-operative society, the object of which is the reclamation and colonization of land or the acquisition of land and the leasing thereof to its members, shall not be entitled to transfer his possession of or interest in any land held by him under the society, except to the society or, with the previous approval of the society given in accordance with its bye-laws, to a member thereof;

(*2*) when the membership of a member of a co-operative society specified in clause (*1*) terminates by reason of his death, expulsion, resignation or insanity, or any other cause, his possession of and interest in any land held by him under the society shall vest in his heir, executor or administrator or in the person, if any, nominated by him

under section 69, if such heir, executor, administrator or person is willing to become a member of the society and is eligible for membership in accordance with the bye-laws of the society;

(*3*) if the heir, executor, administrator or person referred to in clause (*2*) does not become a member of the co-operative society, the possession of and interest in the land of the deceased, expelled, resigned or insane member shall vest in the society, which shall pay to such heir, executor, administrator or person, as the case may be, a sum equivalent to the value of the land as determined in accordance with the rules; and

(*4*) no land held under a co-operative society specified in clause (*1*) by a member thereof, or vested under clause (*2*) in the heir, executor or administrator of such member or in any person nominated by such member under section 69 shall be attachable in any suit or proceeding for the recovery of any debt other than a debt due to the society or to a member thereof."

Since which an amendment has been moved by Mr. Kamini Kumar Dutta; that the words "incurred before the vesting of the land in the co-operative society" be inserted after the word "debt" occurring for the first time in line 5, sub-clause (*4*) of the new clause.

The question before the House is: that the amendment to the amendment that the words "incurred before the vesting of the land in the co-operative society" be inserted after the word "debt" occurring for the first time in line 5, sub-clause (*4*) of the new clause, be made.

A division was then demanded and taken with the following result:—

AYES—16.

Ali, Mr. Altaf.
Banerjee, Rai Bahadur Keshab Chandra.
Bose, Rai Bahadur Manmatha Nath.
Das, Mr. Lalit Chandra.
Dutta, Mr. Bankim Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Pal Choudhury, Mr. Ranajit.
Ray, Rai Sahib Jogendra Nath.
Ray, Mr. Nagendra Narayan.
Roy, Mr. Amulyadhone.
Roy Chowdhury, Mr. Birendra Kishore.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—26.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Aziz, Khan Sahib Abdul.
Barua, Mr. Dhirendra Lal.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqui Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Ferguson, Mr. R. W. N.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Lamb, Sir T.
Momin, Begum Hamida.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur Ataur.
Rashid, Khan Bahadur Kazi Abdur.
Ross, Mr. J. B.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, The Hon'ble Sir Bijoy Prasad.
Stark, Mr. A. F.
Talukdar, Dr. Kasiruddin.

Mr. PRESIDENT: Order, order. The House has divided. For the amendment—16; against the amendment—26. The amendment is, therefore, negatived.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Before you put the amended clause, Sir, to the House, may I just make one submission to you and to the House? I would ask you to take into consideration the short-notice amendment that was moved by Khan Bahadur Naziruddin Ahmad with regard to clause 69——

Mr. HUMAYUN KABIR: On a point of order, Sir. Can the Hon'ble Minister again raise in the same session and on the same day a matter which has already been disposed of by the House?

Mr. PRESIDENT: I shall now put the new clause 71A to vote. I have not yet decided whether the amendment to the clause is out of order. If there is no objection from the House, I shall allow the amendment to be moved, for the Chair will always try to help the removal of any lacuna that may exist in the Bill.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I was going to submit to the House what the effect of this would be. I do not want to impose my judgment upon the House, but I make my submission before the House so that the House would be good enough to see the effect of this expression if it is retained, for in that event if you read clause 69 which has been agreed to, it will appear that there cannot be any nomination by a member except under section 69 according to which the property will vest in his nominee in whose favour the transference has been made. But in that case, except in the event of his death, you cannot accept his nominee. So, there is a difficulty if you retain this expression. From that point of view, I submit that the amendment be reconsidered, if the House would be good enough to allow the short-notice amendment being moved.

Rai Sahib JATINDRA MOHAN SEN: I have objection, Sir.

Khan Bahadur NAZIRUDDIN AHMAD: I submit, Sir, this is a matter which lies entirely in the hands of the Chair.

Mr. PRESIDENT: Yes, that is so. The Chair may, in his discretion, allow a short-notice amendment if he is satisfied that it is necessary. I have ruled that ordinarily I shall not allow a short-notice amendment to be moved if there is objection. But that procedure is not to be too rigorously followed. If it is apparent that some incongruity or inconsistency should be removed by a short-notice amendment

to which unreasonable objection is raised, I shall not hesitate to use my discretion in allowing such an amendment. Therefore, before I rule out this short-notice amendment, I would like to know on what grounds it is being objected to. Will Mr. Sen kindly state his grounds?

Rai Sahib JATINDRA MOHAN SEN: Sir, I object on the ground of principle. Because on many occasions in the past, when we wanted to move short-notice amendments in order to remove obvious inconsistencies, our amendments have been objected to.

Mr. PRESIDENT: I am not prepared to consider such objection on principle. As I have said, the Chair will exercise its discretion whether it will permit such an amendment; but before doing so I should like to hear on what ground the objection has been raised.

Mr. HUMAYUN KABIR: Even on the ground of merit, Sir, I object to this short-notice amendment being moved. This clause reads thus: "when the membership terminates by death, expulsion, resignation or insanity, his possession of and interest in any land held by him under the society shall vest in his heir, executor or administrator or in the person, if any, nominated by him under section 69." This, I think, gives a fairly wide scope to the member. Before his death he might have nominated a person under section 69, but in the case of expulsion this contingency could not have arisen. In the case of insanity, it may not arise immediately, but it may be that before he became insane he might have made a nomination which would become effective on his death. In any case, Sir, the short-notice amendment makes no sense at all, because in that case we shall only have "or in the person nominated by him". We do not know how such a person is going to be nominated, because it is proposed only to omit the words "under section 69", so that the provision is to nominate some person in the case of death, expulsion, resignation or insanity; but the amendment says nothing whatsoever as to how that nomination is to be effected. This makes the clause even more defective than it is at present.

Mr. KAMINI KUMAR DUTTA: As to nomination, Sir, the only provision in this Bill is under section 69. We do not find nomination provided for in any other way. If the Hon'ble Minister could help us in showing any other clause which refers to nomination, then we could have understood the purpose of his dropping the clause. As it is, nomination can only be understood in the sense as provided for under clause 69 of this Bill. So, there seems to be no reason behind this amendment at all. Besides, if this particular portion be dropped, it may lead to various complications. The word "nomination" would only be vague.

Mr. PRESIDENT: May I have the views of Khan Bahadur Abdul Karim on this matter?

Khan Bahadur ABDUL KARIM: I would ask my friend, Khan Bahadur Saiyed Muazzamuddin Hosain, to speak on behalf of my party.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, ——

Mr. PRESIDENT: I shall call you later.

Mr. J. B. ROSS: Mr. President, Sir, I think this party agrees with the views expressed by my friend, Mr. Humayun Kabir, in this matter. There is only one provision for nomination and that is in section 69, and if you will drop it, it will only add to the many ambiguities which exist in the Bill.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Here nomination under section 69 refers to a nominee of a person who is dead. It will apply only to a person who has been nominated by a member who is dead. Whereas this section deals with nominees of expelled members, and members who have resigned or become insane. Government now wants that the power of making nomination should not be confined only to members in the event of their death, but should be extended also to the cases of expulsion, resignation and insanity. In every such case, the person concerned will be able to select his nominee. But if it is restricted to section 69 only, it will not cover all the cases I have just mentioned. If section 69 remains there, it is only in the case of death that a person's nominee may come in, but in none of the other cases mentioned in this section, a nominee will have any right. There is thus an anomaly which this short notice amendment seeks to set right.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, we agree with the views expressed by Mr. Humayun Kabir.

Mr. PRESIDENT: As there is objection from all the Opposition parties as also from the European Group, I disallow the amendment to be moved.

The question before the House is: that after clause 71 of the Bill, the following new clause be inserted, namely:—

Restriction on transfer of possession of land interest in land held under a co-operative society.

"71A. Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force—

(*1*) a member of a co-operative society, the object of which is the reclamation and colonization of land or the acquisition of land and

the leasing thereof to its members, shall not be entitled to transfer his possession of or interest in any land held by him under the society, except to the society or, with the previous approval of the society given in accordance with its bye-laws, to a member thereof;

(2) when the membership of a member of a co-operative society specified in clause (1) terminates by reason of his death, expulsion, resignation or insanity, his possession of any interest in any land held by him under the society shall vest in his heir, executor or administrator or in the person, if any, nominated by him under section 69, if such heir, executor, administrator or person is willing to become a member of the society and is eligible for membership in accordance with the bye-laws of the society;

(3) if the heir, executor, administrator or person referred to in clause (2) does not become a member of the co-operative society, the possession of and interest in the land of the deceased, expelled, resigned or insane member shall vest in the society, which shall pay to such heir, executor, administrator or person, as the case may be, a sum equivalent to the value of the land as determined in accordance with the rules; and

(4) no land held under a co-operative society specified in clause (1) by a member thereof, or vested under clause (2) in the heir, executor or administrator of such member or in any person nominated by such member under section 69 shall be attachable in any suit or proceeding for the recovery of any debt other than a debt due to the society or to a member thereof."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 71 stand part of the Bill.

(The motion was agreed to.)

Khan Bahadur ATAUR RAHMAN: Sir, my original amendment is printed as amendment No. 569, but I want to propose some change in the wording of the amendment, the purport remaining the same.

Mr. PRESIDENT: Yes, if it is only a verbal change.

Khan Bahadur ATAUR RAHMAN: I beg to move that after sub-clause (2) of clause 107 of the Bill, the following sub-clause be added, namely:—

"(3) The purchaser of any mortgaged property sold under this Chapter shall supply to the Registrar notices in the prescribed form for service on the landlord of such property together with such fee, as may be prescribed for the service of such

notices, and the landlord's fee, if any, required under the Bengal Tenancy Act, 1885, and the Registrar shall thereupon, in the prescribed manner, cause such notices to be served on, and such landlord's fee to be transmitted to, the landlord, namely, such notices".

Sir, unless such notices are given to the landlord, he will not be in the position of the purchaser. Besides, the Bengal Tenancy Act provides some landlord's fee and that also must be paid to him. This was an omission in the original draft. I, therefore, propose that this amendment be accepted.

Mr. PRESIDENT: Amendment moved: that after sub-clause (*2*) of clause 107 of the Bill, the following sub-clause be added, namely:—

"(*3*) The purchaser of any mortgaged property sold under this Chapter shall supply to the Registrar notices in the prescribed form for service on the landlord of such property together with such fee, as may be prescribed for the service of such notices, and the landlord's fee, if any, required under the Bengal Tenancy Act, 1885, and the Registrar shall thereupon, in the prescribed manner, cause such notices to be served on, and such landlord's fee to be transmitted to, the landlord, namely, such notices".

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, this certainly meets the case and it removes a lacuna in the clause. I am prepared to accept the amendment.

Mr. PRESIDENT: The question before the House is: that after sub-clause (*2*) of clause 107 of the Bill, the following sub-clause be added, namely:—

"(*3*) The purchaser of any mortgaged property sold under this Chapter shall supply to the Registrar notices in the prescribed form for service on the landlord of such property together with such fee, as may be prescribed for the service of such notices, and the landlord's fee, if any, required under the Bengal Tenancy Act, 1885, and the Registrar shall thereupon, in the prescribed manner, cause such notices to be served on, and such landlord's fee to be transmitted to, the landlord, namely, such notices."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 107, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 126.

Mr. PRESIDENT: Clause 126 stand part of the Bill.

Mr. J. B. ROSS: Sir, I already spoke on it yesterday, but I do not know whether any short-notice amendment has been put before the House to give effect to the real meaning of this clause, and I do not know whether the Minister proposes to put any such short-notice amendment before the House. I would strongly advise him to do so, so that the ambiguity of the clause may be cleared up. All that is required is to put in after the words "has at any time" in line 5, the words "after the commencement of this Act, and". I will move that as a short-notice amendment if the Minister is not prepared to do so.

Mr. PRESIDENT: I have not received notice of any short-notice amendment like that but I am still agreeable to accept any such amendment if there is no objection.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have already explained the position and if Mr. Ross feels that by the addition of this expression the meaning would be made clear, I have no objection. I have already said that we do not want to give this clause any retrospective effect, but if the House is in a mood to accept such amendment, I have no objection.

Mr. PRESIDENT: I take it that there is no objection to Mr. Ross's moving the short-notice amendment.

(There was no objection.)

Yes, Mr. Ross, you move your amendment.

Mr. J. B. ROSS: Sir, I beg to move that in clause 126, sub-clause (*1*), after the words "has at any time" in line 5, the words "after the commencement of this Act, and", be inserted.

Mr. PRESIDENT: Amendment moved: that in clause 126, sub-clause (*1*) after the words "has at any time" in line 5, the words "after the commencement of this Act, and", be inserted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is that clause 126, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 139.

Mr. PRESIDENT: Clause 139 stand part of the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in sub-clause (*1*) of clause 139 of the Bill, after the word "publication" occurring in line 3, the words "and with the approval of the Provincial Legislature" be inserted.

Sir, it is well known that the framing of the rules is a sort of power given to the executive to pass indirect legislation because rules have exactly the same force as the Act itself. The tendency of modern Legislature is to curtail this power as far as possible, as more often than not the very purpose of the Act is frustrated by the framing of rules which are almost inconsistent with the main purpose of the Act. Indeed, occasions are now few on which the highest tribunal of the land, the Hon'ble the High Court, had to declare the rules framed by the Government under different Acts to be inconsistent with the purpose of the Act and as such *ultra vires*. That would only show that really there is a tendency on the part of the executive to encroach upon the functions of the Legislature and indirectly to frustrate the effect of the enactment itself. The principle that rules framed by the executive should be submitted for the approval of the Provincial Legislature had recently been acted upon in the case of the Motor Vehicles Act. That was a wholesome principle which ought to be followed, particularly in respect of a measure like this which would affect the masses in the rural area. Particular precaution ought to be taken as to the framing of the rules and it ought to be very seriously considered whether the rules may not be framed in such a way as not to really encroach upon the function of the Legislature itself. In this Act itself, we have observed that there is a tendency towards what I may call "a totalitarian mentality", to centralise the whole power in the hands of the Registrar. So, particularly in an economic measure like this where we have to deal with a large mass of people, the power of making rules ought not to be absolutely left to the executive. It is going to be a legislation which is already of a somewhat, if I may be allowed to use that expression, fascist character and it ought not to be made more fascist by giving absolute power to the executive to frame rules, unhampered by any form of control by the Legislature.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 139 of the Bill, after the word "publication" occurring in line 3, the words "and with the approval of the Provincial Legislature" be inserted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, with regard to the framing of rules, it may be noted that there are certain cardinal principles and matters which go to the root of the subject and there are certain other matters which relate only to the machinery by which those provisions of the Act are to be given effect to. Matters which are of the former category are never left to be dealt with by rules framed by the Executive but are disposed of one way or the other by the Legislature itself. But unless the things are of supreme or of fundamental importance, it is not very convenient for the Legislature to be troubled with them.

Now, Sir, recently a new difficulty has been brought to light. In case any rules are drafted and are submitted for the approval of the Legislature and in case the two Houses differ, there is no machinery to resolve the difference and find out a solution. We cannot move the rules backwards and forwards between the two chambers and we cannot have a joint sitting over them as we can in the case of a Bill. That is a practical difficulty. I believe, Sir, in the working of the co-operative societies, rules are more or less of a routine or departmental character and not of fundamental character. In this view, I submit, that the amendment cannot be accepted and the department may be left to frame the rules. In the case of any rule which goes beyond the scope of our ideas or which we cannot approve of, the House has always the right to express its opinion and compel the Government to change the rules. (Mr. HUMAYUN KABIR: How?) By moving a resolution. That the House has always the right to do. But in case, as I submitted, there is difference of opinion between the two Houses, we cannot resolve the difference. We can do so only in respect of a Bill. In these circumstances, Sir, I formally object to the amendment.

Rai Sahib JATINDRA MOHAN SEN: Sir, I support the amendment of my learned friend Mr. Kamini Kumar Dutta. It is extremely necessary that these by-laws should have the sanction of the two Houses. Mr. Dutta has very lucidly explained the reason why the jurisdiction of the Legislature should not be taken away in this manner. As I pointed out yesterday, the jurisdiction of the civil courts has been taken away by clause 132. If this jurisdiction of the civil court had not been taken away, then if any by-laws had been framed which were *ultra-vires* of the Act or which were inconsistent with the provisions of this Act, the civil court would have put them right. The only remedy, as has been suggested by my honourable friend, Khan Bahadur Naziruddin Ahmad, is that there should be a resolution of the House in order to rectify the defect. Now, Sir, that is a very difficult process, and in a House which we have become accustomed to, it will be very difficult to rectify such defects. If the jurisdiction of the civil court

had been there, we could have expected some sort of justice; but constituted as the Houses are at present, we do not see any prospect of real defects being remedied. So, it is necessary, Sir, that at least the sanction of the Legislature should be obtained before these by-laws should have the effect of law.

Mr. LALIT CHANDRA DAS: Sir, I rise to support the amendment of Mr. Kamini Kumar Dutta. I have a similar amendment—No. 693. May I move it at this stage?

Mr. PRESIDENT: Yes, you may move it.

Mr. LALIT CHANDRA DAS: I beg to move that at the end of clause 130 the following new sub-clause be added, namely:—

"(*4*) All rules made under this section shall be laid on the table of both the Houses of Legislatures being made subject to such modifications as the Legislatures may make."

Sir, arguments in favour of such an amendment have already been put forth and I would add one more. This Bill consists of 138 clauses. But if you look to clause 139 you will find that Government are empowered to make rules according to their own showing on 79 heads. As a matter of fact, these rules will make the co-operative law complete. I have gone through the different clauses of the Bill and at every turn and corner of it, I have found it mentioned that rules are to be framed by Government in the manner prescribed. So, how the rules are to be framed and on what heads will be found in clause 139 which empowers the Government to make rules under 79 heads and all these heads are very important and go to the very fundamentals of this Bill. The Rules will materially affect the important provisions of the Bill. So, the Legislature ought to have a say about the rules, and examine whether these rules are really salutary and really for the benefit of the societies and will go towards the progress and growth of the societies.

With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Further amendment moved: that at the end of clause 139 the following new sub-clause be added, namely:—

"(*4*) All rules made under this section shall be laid on the table of both the Houses of Legislatures being made subject to such modifications as the Legislatures may make."

Raja BHUPENDRA NARAYAN SINHA Bahadur: Sir, I rise to support the amendment which has been so ably moved by the Leader of the Opposition. The only objection that has been raised by the other side is to the effect that the rules will be of an official nature. My honourable friend Khan Bahadur Naziruddin Ahmad asserts that rules framed under the provisions of this Bill will be practically of an official nature and that as such no amendments are of any use. I do not agree with him. The Registrar under this clause has been empowered to penalise a person with a fine the maximum of which has not been fixed in the Bill. It has been said, that it will be fixed by the rules to be made by the Government. Thus, by this provision the Registrar has been given the power of a Magistrate to impose fines. This is not a small or trifling thing to be overlooked. The Hon'ble Minister may argue that if there be any inconsistency with the spirit of the Act in the framing of the rules, it can be rectified later on. But I do not know how this can be done. The only way to my mind in which this can be done is by moving a resolution in the House with a view to bring any inconsistency to the notice of the Government. But from practical point of view this is impossible. We know, Sir, that during a session about 300 to 400 resolutions are tabled, out of which only 2 or 3 resolutions are disposed of. By way of illustration, I may mention, Sir, that I tabled a resolution in the very first session after the inauguration of the Council and I do not yet know if it will at all come up during the 9 years' life of the Council. Thus, it does not appear to me to be a practical solution of the difficulty which has been pointed out by the Leader of the Opposition. In the circumstances, I am strongly of opinion that the Legislature should have a say in the framing of the rules. I, therefore, feel that this amendment should be accepted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose both these amendments. So far as the amendment moved by the honourable Leader of the Opposition is concerned, my respectful submission to the House is that the rules can never be inconsistent with the principles laid down in the Act. Sub-clause (*1*) of clause 139 will make that position clear, viz., that it is to carry out the purpose of this Act that the rules are to be made, and I submit, Sir, that the executive could be trusted at least to draft the rules to carry out the purpose of this Act. The apprehension that has been expressed, I submit again, is not well-founded. If these details are laid before the House and the time of the House is wasted by merely going into the details of these rules, it would not take us very far; for sub-clause (*1*) says that rules can never be made effective and operative, unless they have been published. It follows, therefore, that unless they have been previously published they can never take effect. I submit, Sir, that when the rules will be drafted they will be published, and that is the

provision made in sub-clause (*1*), and if any criticism is offered it will be the duty of Government to examine those suggestions and in the light thereof to take steps to remove any of the provisions made in the rules which may appear to be repugnant or objectionable. It has been said that by taking upon itself the power to frame rules an attempt is being made to curtail the power of the Legislature. I respectfully join issue with the honourable Leader of the Opposition so far as that view is concerned. No democratic or responsible Government can take away or curtail the power of the Legislature. They hold their office so long as they enjoy the confidence of the Legislature. In that view of the matter, the observations made by the honourable Leader of the Opposition is not well-merited. On the contrary, their actions, so far as the framing of the rules is concerned, must answer to the judgment of the House in the end. If we were to do this what would be the effect? Take one instance at random. I have just opened clause 20 which says the procedure as to how a general meeting is to be held and how these different things have got to be done. It is said in sub-clause (*2*) of clause 20 that "the general meeting shall be summoned and shall exercise its authority in such manner as may be prescribed". We have to frame rules as to how delegates have to be elected, how electoral colleges are to be established, when they are to be elected and what would be the quorum. I do not know how these details can be placed before the House, without involving a needless waste of time of the hon'ble members as has been seriously suggested by Mr. Das.

The Leader of the Opposition has said that some judiciaries even have held that some of the rules are inconsistent with the principles underlying the legislative measures concerned. May I respectfully draw your attention that if that were the position, there have been judicial authorities who have also held legislative measures to be *ultra vires*. So, in the face of this, those arguments have got no legs to stand upon. If there is anything wrong we are not free from criticism and if these things are brought to the notice of the Government, certainly they will see that these defects and difficulties are removed. It is no doubt true that so far as the Motor Vehicles Act—a Central Legislative Act—is concerned, the rules thereunder were laid before the Legislature and the votes of the Legislature were taken on them; but I do not know why it was done. I am not here to explain as to why and under what circumstances it was so done. But I respectfully submit that if we are to place a set of rules, which will number about several hundreds, for consideration by this House and ask it to consider each and every one of them, that will do us no good except to waste the time of the House. I do not subscribe to the view that we have the least intention of curtailing the power of the Legislature. It is our duty to see that we enjoy the confidence of the

Legislature and carry out the purpose consistently with the provisions of the Act. It is undoubtedly true that some powers are vested in the Registrar, but I have had occasion to submit that whenever anything went wrong that wrong would not be without its remedy. I had occasion to point out that for any wrong done, there was provision for appeal.

As regards my friend Rai Sahib Jatindra Nath Sen, I am now in a position to understand the psychology under which he has been acting. I submit that when he says that power of the civil court has been taken away by virtue of section 132, it is difficult to appreciate his argument. I would request him to peruse that section once more to find out in what matter the jurisdiction of the civil court has been ousted.

My friend Mr. Lalit Chandra Das in moving his amendment No. 693 has suggested that the rules should be subject to the modification that the Legislature may make. I submit that although we shall be framing rules under 79 different heads, they cannot be against the provisions of the Act. So, there is no justification for accepting a provision of this nature.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Kamini Kumar Dutta: that in sub-clause (*1*) of clause 139 of the Bill, after the word "publication" occurring in line 3, the words "and with the approval of the Provincial Legislature" be inserted.

A division was then demanded and taken with the following result:—

AYES—15.

All, Mr. Altaf.
Banerjee, Rai Bahadur Keshab Chandra.
Bose, Rai Bahadur Manmatha Nath.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Pal Choudhury, Mr. Ranajit.
Ray, Rai Sahib Jogendra Nath.
Roy, Mr. Amulyadhone.
Roy Choudhury, Mr. Birendra Kishore.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—27.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mosbahuddin.
Ahmed, Mr. Nur.
Aziz, Khan Sahib Abdul.
Barua, Mr. Dhirendra Lal.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Mr. Humayun Reza.
Chowdhury, Khan Bahadur Rezzaqul Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Ferguson, Mr. R. W. N.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Lamb, Sir T.
Molla, Khan Sahib Subidali.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur Ataur.
Ray, Mr. Nagendra Narayan.
Ross, Mr. J. B.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, The Hon'ble Sir Bijoy Prasad.
Stark, Mr. A. F.

Mr. PRESIDENT: Order, order. The House has divided. For the amendment—15; against the amendment—27. The amendment is, therefore, negatived.

The question before the House is: that at the end of clause 139 the following new sub-clause be added, namely:—

"(4) All rules made under this section shall be laid on the table of both the Houses of Legislature being made subject to such modifications as the Legislature may make."

(The amendment was negatived.)

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that paragraph (*xv*) in sub-clause (2) of clause 139 of the Bill be omitted.

The paragraph runs as follows: "the qualifications, disqualification, term of office, suspension and removal of members of managing committees and officers of different classes of co-operative societies." The powers which have been given through the different clauses are already of a far-reaching character and if further power is proposed to be given to the Government to frame rules also in respect of these items, the Legislature would practically be abdicating its functions in favour of the Government. I would particularly object to power being given to frame rules to specify the qualification, disqualification, term of office, suspension and removal of members of managing committees and officers of different classes of co-operative societies, as these powers are of a very drastic character and they affect the primary rights of the members of the societies and their officers. So, I commend this amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that paragraph (*xv*) in sub-clause (2) of clause 139 of the Bill be omitted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose this. It would appear that these are mere details which must be laid down in the rules and not in the provisions of the Act already agreed to by the House. You will find, Sir, at least with reference to one of such matters, namely, how long an officer will hold office, it has got to be laid down in the rules for the simple reason which we have definitely mentioned, namely, that if the committee has to work for three years or if there should be some sort of change in the managing committee, that cannot be done in the Act itself. Following the provisions of the Act, I submit that various details are to be settled; otherwise, it is very difficult for anybody to work.

On this ground, I have to oppose.

Mr. PRESIDENT: The question before the House is: that paragraph (*xv*) in sub-clause (*2*) of clause 139 of the Bill be omitted.

(The amendment was negatived.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that after paragraph (*1*) of clause 139(*2*) the following paragraph be inserted, namely:—

"(*1a*) the manner of determining the value of land for the purposes of clause (*3*) of section 71A."

Mr. PRESIDENT: Amendment moved: that after paragraph (*1*) of clause 139(*2*) the following paragraph be inserted, namely:—

"(*1a*) the manner of determining the value of land for the purposes of clause (*3*) of section 71A".

(The amendment was agreed to.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move that sub-clause (*3*) of clause 139 of the Bill, be omitted.

Sir, the clause runs thus: "In making any rule under this Act the Provincial Government may direct that any person committing a breach thereof shall on conviction by a Court be punishable with fine which may extend to fifty rupees and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues subsequent to such conviction."

Sir, I fail to understand what is really meant by this clause—in making any rule under this Act. Whether the person should be liable for breach of rules, or what? The wording is—in making any rule under this Act the Provincial Government may direct that any person committing a breach—breach of what? Rules are to be made by the Provincial Government but it does not appear that for breach of rules framed by the Provincial Government, a person is to be liable for conviction with fine. I urge, Sir, it is of a very penal nature besides being vague and should not find a place in this Bill.

With these words, Sir, I move my amendment.

Khan Bahadur ATAUR RAHMAN: Sir, I have got two consequential amendments under items (*liv*) and (*lxii*) of sub-clause (*2*) of clause 139. Unless they are disposed of, Mr. Das' amendment, which is an amendment to sub-clause (*3*), cannot be taken up.

Mr. PRESIDENT: Mr. Das' amendment is postponed for the time being. I will first allow Khan Bahadur Ataur Rahman to move his amendments.

Khan Bahadur ATAUR RAHMAN: Sir, the House has already accepted an amendment moved by me relating to clause 80 and just to be consistent with that, I propose that in item (*liv*) in sub-clause (*2*) of clause 139, after the word "comprising" the following words be inserted, namely, "and other functions to be performed by".

Mr. PRESIDENT: Amendment moved: that in item (*liv*) in sub-clause (*2*) of clause 139, after the word "comprising" the following words be inserted, namely, "and other functions to be performed by".

(The amendment was agreed to.)

Khan Bahadur ATAUR RAHMAN: Then, Sir, by amendment No. 569 which has already been accepted by the House, I have removed a lacuna in clause 107, that is, the service of notice on the landlord by the purchaser. Now, the method of service of notice should be provided for in the rule. For this purpose, I beg to propose that in clause 139, sub-clause (*2*), item (*lxii*)(*h*), the following be added after the figure "107", namely, "the form of the notices to be supplied under sub-section (*3*) of that section, the fee payable for the service of such notices and the manner of serving such notices on and of transmitting the landlord's fee to the landlord named in such notices".

Mr. PRESIDENT: Amendment moved: that in clause 139, sub-clause (*2*), item (*lxii*)(*h*), the following be added after the figure "107", namely, "the form of the notices to be supplied under sub-section (*3*) of that section, the fee payable for the service of such notices and the manner of serving such notices on and of transmitting the landlord's fee to the landlord named in such notices".

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, in clause 139, sub-clause (*1*), and paragraphs 3 and 5 of sub-clause (*2*), the House has accepted the drafting in a particular form, namely, instead of "class of society", the words "class of societies" have been accepted. So, in order to make the wordings uniform, I am going to propose this amendment.

Mr. PRESIDENT: You may formally move it.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in sub-clause (*2*) in paragraphs (*iii*) and (*v*) of clause 139, for the words "class of society" wherever they occur, the words "class of societies" be substituted.

Mr. PRESIDENT: The question before the House is the amendment of Khan Bahadur Naziruddin Ahmad: that in sub-clause (*2*) in paragraphs (*iii*) and (*v*) of clause 139, for the words "class of society" wherever they occur, the words "class of societies" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 139 of the Bill, in sub-clause (*1*), for the words "class of co-operative society" occurring in line 3, the words "class of co-operative societies" be substituted.

Mr. PRESIDENT: Amendment moved: that in clause 139 of the Bill, in sub-clause (*1*) for the words "class of co-operative society" occurring in line 3, the words "class of co-operative societies" be substituted.

The question before the House is: that in clause 139 of the Bill, in sub-clause (*1*) for the words "class of co-operative society" occurring in line 3, the words "class of co-operative societies" be substituted.

(The amendment was agreed to.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move that sub-clause (*3*) of clause 139 of the Bill be omitted.

Mr. PRESIDENT: Amendment moved that sub-clause (*3*) of clause 139 of the Bill, be omitted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I oppose this amendment. It is after a conviction that the question of punishment arises and the conviction will be awarded by a court. I submit, therefore, that there ought not to be any apprehension.

Mr. PRESIDENT: The question before the House is the amendment of Mr. Lalit Chandra Das: that sub-clause (*3*) of clause 139 of the Bill, be omitted.

(The amendment was negatived.)

Rai Bahadur MANMATHA NATH BOSE: I beg to move that in sub-clause (*3*) of clause 139 of the Bill, for the words "ten rupees" occurring in line 6, the words "two rupees" be substituted.

Sir, this sub-clause provides that "on conviction by a court be punishable with fine which may extend to fifty rupees". So, that is the principal punishment and it goes on to say "continuing one, with further fine which may extend to ten rupees for every day after the first." I submit, Sir, that this is too much and, therefore, I have suggested to reduce it to Rs. 2, because if the punishment be so severe, non-official workers are likely to be scared away.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*3*) of clause 139 of the Bill, for the words "ten rupees" occurring in line 6, the words "two rupees" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: This is in connection with breach of rules. Sir, if any worker persists in breaking the rules provided for in this Act, there is no justification why his punishment should not be a heavy one. If it be any punishment, it should be effective. Sir, I oppose the amendment.

Mr. PRESIDENT: The question before the House is the amendment of Rai Bahadur Manmatha Nath Bose: that in sub-clause (*3*) of clause 139 of the Bill, for the words "ten rupees" occurring in line 6, the words "two rupees" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 139, as amended, stand part of the Bill.

(The motion was agreed to.)

Schedule I.

Mr. PRESIDENT: The question before the House is: that Schedule I stand part of the Bill.

(The motion was agreed to.)

Schedule II.

Mr. PRESIDENT: Schedule II stand part of the Bill.

Mr. HUMAYUN KABIR: Sir, I beg to move that in the Second Schedule of the Bill, after item No. 1, the following be inserted in their respective columns, namely:—

Serial.	Section.	Powers.
1	2	3
IA	25 & 26.	Dissolution and Reconstitution of managing committee and appointment of a person to manage the affairs of a society.

Now, Sir, though this amendment sounds very unintelligible, a little inspection will show that it is not really so. Besides, this is a very important amendment. This Schedule refers to the powers which are to be exercised exclusively by the Registrar, while there are other

powers which can be delegated by the Registrar to his subordinate officers. Sections 25 and 26 deal with very important matters. Under section 25 the Registrar has the power of dissolving a managing committee, and not merely that; he has the further power of disqualifying certain members from becoming the members of the managing committee for a certain period. Sections 25 and 26 together therefore are very important sections because they contain penal provisions and these penal powers are given to the Registrar. In other spheres, it is true that a person's election is sometimes set aside and he ceases to be a member, but he can be disqualified from again standing for election only by a tribunal but here the Registrar is given that power as well. This is such an important power that this should, in my opinion, not be given to a departmental head, but if it is at all given, it should be exercised by the Registrar alone; otherwise, it may be that a certain local officer who does not pull on well with a certain managing committee may hold such power as a threat over it. In such cases if the managing committee is dissolved or certain members are disqualified, there may be a real hardship. Of course, it may be said by the Hon'ble Minister that there is the right of appeal. But we know that this right of appeal is not always effective, because many of the sufferers cannot go to the higher authority. And as has been pointed out on more occasions than one by my honourable friend, Rai Bahadur Manmatha Nath Bose, if honorary workers are scared away in this way, the co-operative movement will suffer. As every honourable member will realise, this power to disqualify is a power which is very important, and therefore I suggest that this power should be exercised only by the Registrar but not by any of his subordinate officers.

Mr. PRESIDENT: Amendment moved: that in the Second Schedule of the Bill, after item No. 1, the following be inserted in the respective columns, namely:—

Serial.	Section.	Powers.
1	2	3
IA	25 & 26.	Dissolution and reconstitution of managing committee and appointment of a person to manage the affairs of a society.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, it is no doubt true that the powers contemplated under this section are of a very radical character, but it will be appreciated that if this power is to be exclusively exercised by the Registrar even in respect of the village societies numbering about 30,000, it would be an impossible task for him. We do not desire that cases of this nature should come up very often, but when they come up, they will have to be judged on their own merits. And I can assure the House that we have got that

object in mind. When the rules will be framed, they will make it amply clear that so far as the central and important urban banks are concerned, their cases will be exclusively dealt with by the Registrar; but I hope it will be appreciated that with regard to innumerable village societies it will not be feasible to give the power to the Registrar to be exclusively exercised by him. Sir, there will be officers appointed by the provincial Government to assist him, and if the Registrar thinks that his powers in this matter should be delegated to such officers to see how things are done, I think there is no harm in such subordinate officers minutely examining bundles and bundles of papers relating to such cases for their proper and adequate consideration. It is from that point of view that we have thought that with regard to small societies such cases may be dealt with by Assistant Registrars. But as I have said a moment ago, rules will have to be framed under these two clauses and also under clause 139 when we will make it amply clear that so far as Central and big urban banks are concerned, they will be exercised by the Registrar, and so far as the other societies are concerned, they will be exercised by officers subordinate to him.

I hope this will satisfy my honourable friend and he would be good enough to withdraw his amendment; otherwise, I must oppose it.

Mr. PRESIDENT: The question before the House is: that in the Second Schedule of the Bill, after item No. 1, the following be inserted in the respective columns, namely:—

Serial.	Section.	Powers.
1	2	3
IA	25 & 26.	Dissolution and reconstitution of managing committee and appointment of a person to manage the affairs of a society.

(The motion was put and lost.)

Mr. PRESIDENT: The question before the House is: that the Second Schedule be added to the Bill.

(The motion was put and agreed to.)

Third Schedule.

Mr. PRESIDENT: The question before the House is: that the Third Schedule be added to the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: Order, order. The House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 13th September, 1940.

Members absent.

The following members were absent from the meeting held on the 12th September, 1940:—

(1) Mr. Kader Baksh.

(2) Mr. Narendra Chandra Datta.

(3) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(4) Mr. Mahomed Hossain.

(5) Khan Bahadur Syed Muhammad Ghaziul Huq.

(6) Alhaj Khan Bahadur Shaikh Muhammad Jan.

(7) Maulana Muhammad Akram Khan.

(8) Mr. W. B. G. Laidlaw.

(9) Mr. Naresh Nath Mookerjee.

(11) Khan Bahadur Mukhlesur Rahman.

(10) Dr. Radha Kumud Mookerji.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 13th September, 1940, at 2-15 p.m. being the thirtieth day of the Second Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Illness of Noabaly, a prisoner of the Comilla Jail.

110. Rai Bahadur BROJENDRA MOHAN MAITRA (on behalf of Mr. Lalit Chandra Das): (a) Will the Hon'ble Minister in charge of the Home Department be pleased to state how many political prisoners under the Defence of India Act were in the Comilla Jail during the first half of June last and how many of them are there now?

(b) Among them who were in the Comilla Jail during the first half of June, was there one prisoner, Noabaly by name, detained under the Defence of India Act and is it a fact that since the 25th May last he was admitted to jail hospital as he was suffering from pain all over his body?

(c) Is he still in jail hospital? If not, when was he declared fit to come out of the hospital? Where is he now?

(d) Is it a fact that he was beaten and in consequence was admitted into the hospital suffering for pain? If so, who beat him and why?

(e) Why was he admitted into the hospital and when was he admitted and when was he discharged?

(f) Is it a fact that the Defence Act prisoners in the Comilla Jail are made to wear ordinary convict's dress and are being treated as 3rd class prisoners?

(g) What exactly were the grounds of complaint against each one of them and how long will they have to remain in prison?

(h) Do Government propose to give them option of wearing their own dress and to treat them as class II prisoners?

(*i*) Have enemy aliens under the Defence of India Act been taken in custody in Bengal? How many of them have been so taken and where and in which class have they been put? Is it a fact that they are being allowed all the modern amenities of life?

(*j*) What are the grounds for any difference in the treatment of Indian prisoners under the Defence of India Act and the European enemy aliens in Bengal?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) There is no category known as political prisoners in the jails in Bengal.

(*b*) Yes. He was admitted to jail hospital on the 21st May, 1940, for debility and neuralgia.

(*c*) No. He was discharged from the hospital on the 3rd July, 1940, and is now in another ward of the jail.

(*d*) No.

(*e*) The honourable member is referred to the answers to parts (*b*) and (*c*) above.

(*f*) Yes.

(*g*) Ten were convicted under the provisions of the Defence of India Rules. Probable dates of their release are shown below—

1 on the 29th August, 1940.

1 on the 10th October, 1940.

2 on the 28th May, 1941.

1 on the 14th March, 1941.

3 on the 3rd May, 1941.

1 on the 10th November, 1941.

1 on the 19th July, 1941.

Five are undertrials for offences under Defence of India Rule 26.

(*h*) No, so far as the convicts are concerned. The under-trials are permitted to wear their own clothes under the rules and are awaiting classifications as under-trials.

(*i*) As no aliens have been taken into custody under Defence of India Act the question does not arise.

(*i*) Does not arise.

Arrest of Mr. Binoy Sinha Roy.

111. Rai Bahadur MANMATHA NATH BOSE (on behalf of Mr. Humayun Kabir): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if his attention has been drawn to the arrest in Calcutta of Mr. Binoy Sinha Roy, Organising Secretary, Bengal Provincial Youth Federation?

(*b*) What are the charges on which he has been arrested?

(*c*) Do the Government propose to bring him to trial before an appropriate Court or in the alternative order his immediate release?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) For being in possession of documents containing prejudicial reports.

(*c*) He has already been sent up for trial before the Chief Presidency Magistrate.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state how many are the documents referred to in (*b*) and what is the subject-matter of each?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Rai Bahadur MANMATHA NATH BOSE: When was the man arrested?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Khaksars in Calcutta.

112. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state whether following the recent orders of the Central Government issued in exercise of powers under sub-rule (1) of rule 58 and sub-rule (1) of rule 59 of the Defence of India Rules and published in a Gazette Extraordinary, the Bengal Government would put a stop to exercises and drills of the Khaksars in Calcutta and in other parts of Bengal and disband the organisation of Khaksars in this Province? If not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: Under the rules now promulgated, drilling by all volunteer organisations is prohibited. The question of disbanding the volunteer organisations in the Province does not arise.

Transfer of the Subdivisional Officer of Noakhali.

113. Mr. SHRISH CHANDRA CHAKRAVERTI (on behalf of Mr. Kamini Kumar Dutta): Will the Hon'ble Minister in charge of the Home Department be pleased to state if the transfer of the Subdivisional Officer of Noakhali (Mr. Ahmed Mia), which was gazetted some time back, has actually taken place by now, as suggested by him in answer to question No. 124 of the November, 1939-January, 1940, session of the Council?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes.

Appointment to the post of Deputy Legal Remembrancer of the High Court.

114. Mr. RANAJIT PAL CHOUDHURY: (*a*) Will the Hon'ble Minister in charge of the Judicial Department be pleased to state the name of the lawyer who was working as the Deputy Legal Remembrancer till the 31st of July, 1940?

(*b*) Is it a fact that the services of the said lawyer was suddenly discontinued from the 1st of August, 1940?

(*c*) Is it a fact that the incumbents of the posts of the Deputy Legal Remembrancer were always classified as whole-time Government servants?

(*d*) Is it a fact that no arrangements have yet been made to fill up the vacancy in the post of the said Deputy Legal Remembrancer of the High Court?

(*e*) Will the Minister be pleased to state whether there is any appreciable decrease of work of the Deputy Legal Remembrancer, and if so, was it before or after the 31st of July, 1940?

(*f*) Will he be pleased to state whether any one has been appointed either formally or informally to carry on the work of the Deputy Legal Remembrancer?

(*g*) If so, on what terms has he been appointed and what is the name of the present incumbent?

(*h*) Is it a fact that Government is contemplating to declare the incumbent of the post of the Deputy Legal Remembrancer as a part-time officer?

(*i*) Will he be pleased to state the reasons that prompted Government in the past, to declare the said post as whole-time office and will he be pleased to state the year when it was so declared with the reasons thereof?

MINISTER in charge of the JUDICIAL DEPARTMENT (the Non'ble Nawab Musharruff Hossain, Khan Bahadur): (*a*) Mr. Debendra Narayan Bhattacharji, Advocate.

(*b*) No. His services were dispensed with after giving him a month's notice.

(*c*) Yes.

(*d*), (*e*) and (*h*) No.

(*f*) and (*g*) Mr. Hamidul Huq Chowdhury, Assistant Deputy Legal Remembrancer, is at present holding charge of the office and duties of the Deputy Legal Remembrancer. The terms are now under consideration.

(*i*) In March, 1875, a Committee which had been appointed to consider and propose arrangements for the more efficient performance of the legal business of the Government of India and the Government of Bengal submitted its report. Among other recommendations the Committee proposed the appointment of a Deputy Legal Remembrancer on a salary of Rs.1,500—100—2,000 per month. The primary object of the creation of the post was to remedy the defect that existed before in the matter of representation of the Crown in criminal cases.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state what was the reason of dispensing with the services of Mr. Debendra Narayan Bhattacharjee?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: He was a temporary man and in a bad state of health.

Mr. RANAJIT PAL CHOUDHURY: What was the period of his service as Deputy Legal Remembrancer?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: It was just two years he was appointed, first for one year and then he was given one more chance.

Mr. RANAJIT PAL CHOUDHURY: Has the order of the whole-time services of the Deputy Legal Remembrancer since been cancelled?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Not yet.

Mr. RANAJIT PAL CHOUDHURY: How is it then that Mr. Hamidul Huq Chowdhury is serving as a Deputy Legal Remembrancer and is also a member of the Council?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: He was an Assistant Deputy Legal Remembrancer and during this vacation when practically there is no work to be done he has been kept in charge of the other post as well. Really speaking, this is to save money and give us some time to frame rules that he has been kept in charge.

Mr. RANAJIT PAL CHOUDHURY: Since Mr. Hamidul Huq Chowdhury is now a Deputy Legal Remembrancer, have the rules providing for the whole-time services been relaxed?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: He is not the Deputy Legal Remembrancer in the legal sense of the term. He is the Assistant Deputy Legal Remembrancer and is just keeping charge of the office.

Rai Sahib JATINDRA MOHAN SEN: Will Mr. Hamidul Huq Chowdhury get any additional remuneration for remaining in charge of this department?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: That depends upon the desire of the Government. As far as I understand, he will be given some temporary allowance.

Rai Sahib JATINDRA MOHAN SEN: Will that deputation allowance be based on the general rule that one gets when he remains in charge of an office?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The matter is under consideration now.

Mr. SHRISH CHANDRA CHAKRAVERTI: What is the salary Mr. Hamidul Huq Chowdhury is drawing now?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: He is drawing only Rs. 400.

Rai Sahib JATINDRA MOHAN SEN: Arising out of (*i*), it is found that a committee was appointed in March, 1857, for reporting methods for more efficient permformance of the legal business of the Government of India and the Government of Bengal. Is effect going to be given after a period of 65 years?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: This is continuing so long. The committee's recommendation has been accepted by the Government and the Government is keeping this office according to the terms of the recommendation.

Rai Sahib JATINDRA MOHAN SEN: Has any complaint been received against Mr. Debendra Narayan Bhattacharji regarding the inefficiency of his work?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, the position is this. He was ailing for long and could not discharge his duties properly. He could not do even 15 per cent. of the work entrusted to him and used to the work done by others. It came to the notice of the Government and the Government then found him to be not doing his duty as was expected of him. That is the reason why Government could not appoint him for any further term.

Mr. RANAJIT PAL CHOUDHURY: Did Mr. Bhattacharji on his own accord say that he is not fit to carry on the functions of the Deputy Legal Remembrancer?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Nobody in the world says that he is unable to do his job.

Mr. RANAJIT PAL CHOUDHURY: Is the Hon'ble Minister aware that many public servants who have to appear before the medical board, do it of their own accord?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The case of Mr. Bhattacharji is an exceptional one. When I gave him a chance of being appointed as the Deputy Legal Remembrancer, his age was above 55. Really speaking, nobody would be appointed after 55. Under the present regime anybody who has passed that age would be retired immediately. Although this gentleman was 56, he could do his work and I appointed him for one year. Then I was under the impression that he was carrying on the work well, and I gave him extension for another year. Instead of compelling him to retire or asking him to vacate this office, I allowed him to work for two years longer than you could have asked me to do. You have ruled that 55 years is the time-limit up to which a public servant should be allowed to work. This public servant attained 57 years. At the end of 57 years, I said that I cannot allow him to continue further. Have I done anything wrong?

Rai Sahib JATINDRA MOHAN SEN: Was there any age bar against Mr. Bhattacharji previously known by him?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Yes, there was.

Rai Sahib JATINDRA MOHAN SEN: What was the age bar?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: As we could not give him a permanent appointment, simply for the *khatir* of the man, I gave him another chance.

Rai Sahib JATINDRA MOHAN SEN: Is there any written rule barring continuance in the office of the Deputy Legal Remembrancer beyond 55 years?

Mr. PRESIDENT: Order, order. The Hon'ble Minister made it clear that the usual period for retirement is the 55th year. In this particular case, he has given extension to this particular gentleman twice.

Rai Sahib JATINDRA MOHAN SEN: Sir, my question really is this. Was there any written rule which was known to Mr. Debendra Narayan Bhattacharji that he was to retire after 55?

Mr. PRESIDENT: How can the Hon'ble Minister say whether Mr. Bhattacharjee was aware of any such rule?

Rai Sahib JATINDRA MOHAN SEN: Whether there was any rule to that effect?

Mr. PRESIDENT: Order, order.

Mr. SHRISH CHANDRA CHAKRAVERTI: Has the Hon'ble Minister ever met Mr. Bhattacharji personally?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Several times.

Mr. SHRISH CHANDRA CHAKRAVERTI: Is he keeping better health or worse health than the Hon'ble Minister?

Mr. PRESIDENT: Order, order.

Rai Sahib JATINDRA MOHAN SEN: What was the pay of the Deputy Legal Remembrancer, Mr. Bhattacharji?

Mr. PRESIDENT: It is there in the answer—in the grade of Rs. 1,500—100—2,000.

Rai Sahib JATINDRA MOHAN SEN: What was the pay he was drawing at the time when he was asked to go?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The scale given in the answer was the original scale. It was subsequently reduced to Rs. 1,200—Rs. 1,600, and as far as I remember, Deben Babu was drawing Rs. 1,200.

Collapsing of Banks.

115. Khan Bahadur KAZI ABDUR RASHID: Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) how many banks and societies, both urban and rural, have already collapsed or are on the verge of collapsing; and what are the reasons therefor;

(*b*) whether there is any truth in the rumour that many societies are not properly audited and some of them are not audited at all for years together; and

(*c*) what steps the Co-operative Department propose to take against persons responsible for either mismanagement or collapse of some of these societies?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) Collapsed since 1937—

Urban	17
Rural	209
Total	226

On the verge of collapsing.—No figure can be given as the expression does not define clearly which societies are meant to be included.

Reasons.—Mismanagement by the members, default of payment, surreptitious transfer of property to avoid payment, and over-financing of the members are the principal causes.

(*b*) No.

(*c*) Necessary provision has been made in the Co-operative Societies Bill, 1940.

Khan Bahadur Kazi ABDUR RASHID: Will the Hon'ble Minister be pleased to state if he is aware of the fact that the Dacca Co-operative Stores Limited is almost on the verge of collapse owing to lack of supervision on the part of the officers of the Co-operative Department?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am sorry. I am not aware of this.

Statement about steps taken on the War resolution.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, in accordance with the provisions of sub-rule (2) of rule 95 of the Bengal Legislative Council Procedure Rules, I have the honour to place for the information of the Council the following statement regarding actions taken by Government on the resolution regarding War, that was passed by the House on the 14th December, 1939:—

A copy of the resolution together with copies of debates thereon in the Council has been forwarded to the Government of India.

Notice regarding the Bengal Urban Poor Relief Bill, 1940.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have the honour to give you notice that I desire to move, during the current session of the Bengal Legislative Council, the following amendment to Khan Bahadur Saiyed Muazzamuddin Hosain, M.L.C.'s motion that the Bengal Urban Poor Relief Bill, 1940, be referred to a Select Committee, viz.—

That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st March, 1941.

NON-OFFICIAL RESOLUTIONS.

Mr. PRESIDENT: The House will now resume further discussion on the following resolution which was moved by Mr. Nur Ahmed on the 6th September, 1940:—

"This Council is of opinion that the Government of Bengal should make a representation to the Government of India urging on them the necessity of giving at least similar assistance, facilities and concessions for the manufacture of salt on a commercial and industrial basis in Bengal as they (Government of India) have given and are giving to Madras."

Rai Sahib JATINDRA MOHAN SEN: Sir, I rise to support the resolution. It is comprehensive enough though the demands are moderate.

Salt is one of the prime necessities of life both in the animal and vegetable kingdoms. The vegetables take it through the food which they suck from the soil. The animals also ordinarily take it in that form. The human beings however have to take it in good quantity as raw salt in addition to what they get through the food which they eat. All human beings from the earliest times were used to prepare or get salt in such manner as was convenient to them according to the peculiar localities, in which they lived. The largest quantity of salt had always been manufactured from the saline water of the sea.

In India, from the earliest times, salt was obtained from the saline water of the sea and from the rock salts in the Punjab and North-West Frontier Province. The extensive sea coasts on the three sides of the continent furnished ample scope for the preparation and manufacture of salt. The most common process was the solar evaporation process, though proofs have been obtained in the Sundarbans that boiling process was also in use there in some early times. History shows that the Sunderbans was one of the most important places for salt manufacture in the 18th and 19th centuries and about 6 lakhs of maunds of salt were produced from 24-Parganas alone in 1855-56. After the passing of the Government from the hands of the East India Company to the Crown, this indigenous industry began to decline until in 1898 the manufacture of local salt was prohibited by law. This law was repealed as one of the results of the Gandhi-Irwin Pact. The dramatic incident prior to this is probably well-known to all in this House.

The methods of manufacture of solar salt are essentially the same in all parts of India though variations occur in the size and construction of pans and in the methods of irrigation. The brine is obtained either from the sea or from pits sunk in the saliferous areas. At Karachi and Tuticorin, the pit brine is sometimes strong enough to be run straight into crystallising beds. In most works however, some preliminary condensation is necessary. In Madras, sea brine is obtained through a network of irrigation channels from which it is boiled or pumped into condensing beds where by solar evaporation it reaches the degree of density at which it begins to crystallise. In Bombay, Sambhor and Okha, the necessary degree of density is obtained by concentrating the brine in reservoirs. Salt normally commences to crystallise at about 25° Beaume. The brine is therefore required to be concentrated to a density of 24° B before it is admitted into the crystallising beds. These beds are shallow and the concentrated brine in a very short time by solar evaporation is crystallised with salt.

The manufacture of solar salt is possible only where the rainfall is small as in Madras, Bombay and Karachi. But where the rainfall is comparatively large, the combined process has to be adopted. This combined process known now as Burma process was probably the English process introduced by George Prinsep in the Narainpur and Gordah Salt Works of 24-Parganas in 1837-38. The process is this:—

Sea brine is trapped in channels and creeks every spring tide. It is elevated to a reservoir and then run by evaporation through a series of condensors where its density is increased by solar evaporation approximately to 25°B when the deposition of salt commences. The saturated brine is then run into a storage tank. A pipe leads from the bottom of the tank into a well inside the boiling house. Rain water falling on the storage tank does not dilute the concentrated brine but floats as a distinct layer as it is considerably lighter than the brine. The collected brine in the well is then lifted and boiled in large pans over a specially designed furnace. Out of a total consumption of 25 lakhs of maunds of salt in Burma, about 10 lakhs are produced locally by this process.

The question of the development of salt industry in Bengal attracted the attention of the Hon'ble Mr. P. D. Raikut, Minister in charge of Forest and Excise, Government of Bengal. He was pleased to direct Rai Sahib D. N. Mukherji, M.SC., B.L., F.C.S.(London), Superintendent of Excise and Salt, Calcutta, and Mr. V. S. Rao, I.F.S., Deputy Conservator of Forests, Khulna, to make a joint enquiry and to report on the possibilities of developing salt factories on a large scale in the Sunderbans by utilising the fuel from the large tracts of forest and to collect details of the working cost and the transit expenses. They made a thorough inquiry which commenced on 29th January, 1938, and ended in May that year in course of which they visited important forest ranges and tested the salinity of the water of large number of creeks and *khals*. They also inspected several salt factories in work. They submitted a very comprehensive report making out a very good and strong case for salt industry in Bengal by means of this combined process. The Government have published that report. It is an important *vade mecum* for those who are interested in salt making and salt industry in Bengal. It has refuted by facts and figures Mr. Pitt's report that any attempt to manufacture salt by solar evaporation or by combined process in Bengal will result in complete failure.

Bengal imports by sea on a average 140 lakhs of maunds of salt every year. Of this about 60 lakhs of maunds are exported to Bihar, Assam, Nepal and United Provinces. The consumption in Bengal may, therefore, be taken to be 80 lakhs of maunds.

A comparative statement of imports from 1933-34 to 1936-37 is given below:—

		Percentage of total imports.
	1933-34.	
I.	Aden ...	62·31
II.	Indian ports ...	26·87
III.	Foreign ports ...	10·82
	1934-35.	
I.	Aden ...	51·78
II.	Indian ports ...	40·36
III.	Foreign ports ...	7·86
	1935-36.	
I.	Aden ...	50·92
II.	Indian ports ...	41·07
III.	Foreign ports ...	8·01
	1937-38.	
I.	Aden ...	48·13
II.	Indian ports ...	43·62
III.	Foreign ports ...	8·25

Imports from Aden and foreign ports have gradually decreased and from Indian ports have increased. Imports from Karachi has increased from 6·89 in 1933-34 to 22·32 in 1936-37. Imports from foreign ports mainly came from Hamburg. Import from Hamburg has increased since the war. Import from Liverpool was only 0·36 per cent. in 1936-37. So there is practically no import from foreign ports and there is no competition with Britian.

Now, Sir, let us see how much of 80 lakhs of maunds of salt which Bengal requires annually for her own consumption can be made in Bengal. The Government report says that nearly 47 lakhs of maunds of fuel from Sunderbans forests may be available per annum after meeting the existing local demands. It has been estimated by actual experiment that 1 maund 10 seers of fuel is required to make 1 maund of dry salt. The consumption of fuel can be considerably lessened by specifically designed furnaces utilising the heat to the fullest extent. On this basis, at least 37 lakhs of maunds, *i.e.*, 46 per cent. of the total consumption of Bengal per annum can be produced from the annual fuel supply from the Sunderbans. About 20 per cent. can be manufactured in the Chittagong areas. At present the Sunderbans forests extend 110 miles along the seaboard from west to east covering an area of about 400 square miles out of which 240 square miles are in Khulna district and the remaining 160 square miles are in the 24-Parganas district.

As regular and cheap supply of fuel has a very important bearing on the success of the manufacture of salt by combined process, the selection of sites for the factories is a matter of the utmost importance. Past efforts have failed on account of bad selection. In the report it has been suggested that the sites should be chosen between Terobanki and Saptamukhi keeping to the east as much as possible to get the advantage of the supply of fuel from Khulna and Bagerhat ranges. An ideal site would be one below the ordinary tide level with a slope from the banks of streams to the interior. Close to steamer route should be chosen as far as possible for facilities of communication and transport of salt after preparation.

Sir, the success of the industry in Bengal will depend upon bringing down the cost of production at the factory and the cost of transit to Calcutta or other distributing markets, if not below, but at least at par with the price of the imported salt at such places. This will not be possible if the Government of India and the Government of Bengal do not foster the industry with paternal care. There are at present 20 salt manufacturing companies which have been registered. Out of these about 6 or 7 are actually workigg. I am interested in some of them and I know the precarious existence through which they are passing.

Sir, the first important help that is wanted is the appointment of an expert adviser to give expert advice to the manufacturers free of cost. The second important help is the supply of fuel free of royalty. The Burma Government remitted the royalty on fuel for salt manufacture with effect from the 1st April, 1923. The third help is the simplification of the procedure to obtain license and supply of fuel is also necessary. At present a man from the factory has to go to the license office at a distance of about 40 miles to deposit the royalty in advance to get the license. Then he has to go to the forest which again is about 60 miles off from the license office with the license for the fuel. Then after loading the fuel, he has to come back again to the license office for verification of the loads. So, he has to come back to the factory after several days. There should be a licensing officer at the forest where the fuel will be obtained. The royalty is Rs. 2 for 100 maunds but the cost of bringing the fuel to the factory is on an average Rs. 16 without the royalty.

Next in point of importance is that financial assistance should be given by way of subsidy for a period of five years for the starting of these factories. An extra import duty of 4 annas 6 pies per maund on foreign imported salt was imposed in 1921 for the development of the salt industry in India and by the memorable resolution of the Central Assembly on the 1st April, 1931, it was held that 7/8ths of this income derived from duty should be left to the provinces contributing the

income and the remaining 1/8th would remain as reserve to the Central Government. Bengal contributed 80 per cent. of this duty as she was the principal consumer of foreign salt. Bengal has received up to now about Rs. 17 lakhs but not a single pice has been spent for the purpose for which it was levied. Members from Bengal including our Hon'ble President, then a member of the Central Assembly, fought hard for expenditure of this amount for the development of salt industry, but in vain. The unspent amount may be spent on the following major heads: Construction of sluice gates, construction of jetties, construction of godowns, construction of portions of embankments. Bengal ports realise about Rs. 2½ crores of duty on salt which goes to the Central Government, but not a single pice is paid to Bengal for the development of this industry and my submission is that the India Government should be asked to contribute some portion of this revenue to Bengal for the development of this industry in Bengal.

Then, Sir, other facilities should be given, namely, facilities for postal services and steamer communications. There is no postal service now within an area of about 14 or 15 miles.

(At this stage the member having reached the time-limit resumed his seat.)

Mr. DHIRENDRA LAL BARUA: Sir, I rise to support the resolution moved by my honourable friend Mr. Nur Ahmed. This resolution proposes only to make a representation to the Government of India to give at least the same kind of assistance, facilities and concessions for the manufacture of salt on a commercial and industrial basis in Bengal as already rendered to Madras. I wonder why so long Bengal has been denied this assistance. It is a matter of common knowledge that so far as the possibilities of the manufacture of salt on a large scale and at a comparatively small cost are concerned, the natural or geographical position of Bengal is in no way less favourable than that of Madras. We have received the Government report on the possibilities of this useful industry in Bengal embodying the results of careful investigation carried on by experts. A handful of salt companies have been floated in Bengal, some of which have been manufacturing salt, and some have not started work as yet. From Tamluk up to the border of Akyab, Bengal confronts the Bay. Her extensive sea-coast contains immense possibilities for the establishment of salt factories. Just the other day, our honourable friend Mr. Ross wanted us to understand that Government did not destroy the industry of ship-building in India. But without going into that question and without laying stress on what happened in the past, the present demand is only for obtaining substantial financial assistance from the Government of India for the revival and development of the salt industry.

Although salt is one of the primary needs, it is only after a hard struggle for 76 years that Bengal has got license from Government for its manufacture. So far as my information goes, the monthly consumption of salt in Bengal is 50,000 maunds, two-thirds of which is imported from Karachi, Bombay and Madras and one-third from Aden and Liverpool. But alas! Bengal is not producing even a small fraction of the demand. Of all industries, salt industry requires no raw material to be purchased for the manufacture of its products. An encouragement of this industry will greatly relieve unemployment and increase the national wealth of the country by preventing an annual drainage of Rs. 1,50,00,000 from Bengal alone.

I hope the present resolution will not fail to receive the unanimous support of all sections in this House who are interested in the betterment of the economic condition of the people of the soil.

The Hon'ble Mr. TAMIZUDDIN KHAN: Mr. President, Sir, I have heard three very learned discourses on this resolution, but I am rather disappointed that I have not heard a single word which is relevant to the resolution. The main part of the resolution is that we should write to the Government of India that the latter should give at least similar assistance, facilities and concessions for the manufacture of salt on a commercial and industrial basis in Bengal, as they have given and are giving to Madras. That is the resolution. But no member has said anything about the assistance that is being given by the Central Government to the Madras Government. I am absolutely in the dark from the speeches of the honourable members as to these facilities. Therefore, at the outset what I promise is this, that I shall at once try to find out what facilities are actually being given by the Central Government to the Madras Government. If they are giving certain facilities there which they are not giving here, then certainly our demand for the extension of those facilities to Bengal will be very strong. However, Sir, taking advantage of this resolution, honourable members have talked generally on the question of the manufacture of salt, on the possibilities of the manufacture of salt in this province. Some of them have referred to the fact that in ancient times salt was very extensively manufactured in Bengal. That is so, Sir. But the question is whether that information will help us. Certainly 100 years ago or 200 years ago, salt was very extensively manufactured here, but the methods employed in those days are out of date now. If we try to manufacture salt according to those ancient methods now, then those who will manufacture salt according to those methods will not be able to compete with producers according to modern methods that are followed in Madras and in Burma. Therefore, the question arises: if they are being able to produce salt on a commercial basis in Madras and in Burma, why should

we not be able to do the same thing here in Bengal? Honourable members are likely to be carried away by the fact that Bengal has a very large sea-coast and therefore Bengal should be able to produce salt as efficiently and as economically as the other provinces are doing. But, Sir, there are certain disadvantages. We have no doubt a large sea-coast, but we have two large rivers,—the Brahmaputra and the Meghna. A large volume of fresh water is pouring into the Bay of Bengal constantly from these two rivers and in this way the salt content of the water of the Bay of Bengal is being reduced. On examination it has been found, Sir, that generally speaking, the brine of the Bay of Bengal is weaker in salt content than the brine of other places.

Rai Sahib JATINDRA MOHAN SEN: On a point of information, Sir. May I refer to the Hon'ble Minister that the theory of Mr. Pitt has been accepted by the recent report published by Messrs. Mukharji and Iyer?

The Hon'ble Mr. TAMIZUDDIN KHAN: There may be a counter-report, but I do not admit that the other theory has been exploded or disproved. However, from this I do not say that I have no sympathy with the idea that we should be able to manufacture salt as economically as others are doing. I am only pointing out certain difficulties. Again, Mr. Sen has said that in Burma they are manufacturing salt very economically, but he has said that they are manufacturing salt out of certain brine beds which are found in Burma. We do not know as yet whether these brine beds extend up to Bengal. If on investigation it is found that they do, then, of course, that will be a source from which salt can be manufactured economically. Again there is another difficulty. So far as the manufacture of salt by solar evaporation is concerned, we are at a very great disadvantage on account of our meteriological position. We have got a heavy rainfall almost throughout the year and only during the months of December, January and February we may say that we have got a dry season. On account of this short dry season, the method of manufacturing salt from solar evaporation is not likely to be successful. Mr. Sen, therefore, says that here we should combine the two systems, the system of solar evaporation and the system of boiling. However, Sir, I do not like to enter into these technical matters. From what Mr. Sen has said, it appears that he is an expert in this matter and he is very confident that salt can be manufactured very cheaply and economically according to certain methods. Sir, that is exactly the point. If we can find out a method by which salt could be manufactured in Bengal as economically as it is being done in Madras, in Burma and elsewhere our problem will be solved and that is what we are troubling ourselves about. I may give the House a short history about what Government has been trying to do in Bengal. It is known to honourable members

that previously both salt excise as well as salt industry used to be administered by the Excise Department of the Government of Bengal. I think it was in the year 1936-37 that the Government of India sanctioned a subsidy to the Chittagong Trade Union Limited Company on the condition that the company should manufacture at least 10,000 maunds of salt every year. But at the end of a year or two, it was found that they could manufacture only 35 maunds in the course of one year. At the end of two years, the company said that they could not produce the required quantity on account of certain initial difficulties that prevailed during the first two years. Therefore, the Government of India granted certain further concessions. Even after these concessions were granted, it was found that later on that in one year they produced only 50 maunds and in a subsequent year only 950 maunds.

Mr. SHRISH CHANDRA CHAKRAVERTI: On a point of information, Sir. May I ask the Hon'ble Minister to let the House know what the Bengal Government has done up-to-date for the development of salt industry in Bengal with the Rs. 70 lakhs which it received from the Government of India from year to year for development of this industry?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, that is not the subject-matter of this resolution. I am developing my own point.

Therefore, Sir, the subsidy that was sanctioned could not be granted. From this it is clear that the company failed because they could not find out the most economical method of manufacturing salt and that is the real trouble. After that various schemes were framed and examined by the Government of Bengal. One was for the establishment of an experimental factory. That scheme ultimately had to be abandoned. The present scheme of the Government of Bengal is the appointment of an expert with experience in the Burma and Madras methods of salt manufacture to investigate the problem of salt manufacture in Bengal and to recommend the best and most economical method and other measures for the development of the industry. This scheme is now under the examination of Government and we hope to be able to come to a conclusion very soon. If that succeeds, then I think we shall be face to face with the real problem as to whether in Bengal we can produce salt cheaply.

I now refer to the point that he has raised in the very beginning with regard to the facilities the Government of India are now giving to the Government of Madras. One of the facilities we know of is that the Government of India have reduced the cess levied on the factories in Madras. The factories have to bear the cost of supervision by the Government of India and that a cess is levied on the factories

for this purpose. Formerly, the cess was at a certain figure. That has now been reduced to a certain extent. That is one of the facilities given by the Government of India to the Government of Madras. But that does not apply here at all, because we are still in an experimental stage and the Government of India have not imposed any cess at all. The factories working in Bengal have not got to pay any cess at all. So, the concession given to the Madras Government by the Government of India does not apply to Bengal. We do not have to pay anything for supervision. Then, Sir, there are also certain other facilities regarding the warehouses. That also does not apply here, because we are not producing much and therefore those facilities are not required just at present. When the industry is developed to a certain extent and the companies find that without warehousing facilities they are at a disadvantage, then will be the time to demand such warehousing facilities but just now those facilities will not be of any use to Bengal. As I have already said, I will enquire into the matter and if it is found that the Government of India are granting facilities to the Government of Madras which they are not extending here, and if they are applicable to Bengal, then we shall certainly ask them to give Bengal those facilities.

I have already said that we are examining certain schemes and when they materialise, the Government of Bengal will do all that is possible to encourage the manufacture of salt in the province. Therefore, I have no objection to accept the resolution of my honourable friend subject to what I have said.

Khan Bahadur ATAUR RAHMAN: Sir, may I know from the Hon'ble Minister whether Bengal was self-supporting as regards supply of salt before its manufacture was prohibited in 1898?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I am not sure about the time when Bengal was self-supporting in the matter of salt-manufacture. But there was a time when Bengal was self-supporting. Similarly, Bengal was self-supporting in respect of the production of cloth; but now every one knows where Bengal stands. Therefore, any such comparison will not help us. All that will help us is to discover the most economic method of the production of salt and let us put our heads together to do it.

Mr. NUR AHMED: Mr. President, Sir, in rising to say a few words in reply, I must at the outset thank the honourable members of this House for the unanimous support they have given to the resolution which I had the honour to move. I have already stated in the speech with which I commended this resolution to the House that what I want is the manufacture of salt on a commercial scale for which at least

that amount of assistance which is given by the Government of India to Madras may be given by that Government to Bengal as well. Sir, I have listened to the reply which the Hon'ble Minister has just given, and I must, with all respect to him, say that it is disappointing. We never expected such a reply from a popular and responsible Minister. Obstacles there must be; difficulties there must be; but we must try our best to remove them. There is no denying the fact that Bengal was once self-supporting in the matter of her salt requirements and that Bengal manufactured her own salt. From past records, it appears that up to 1862 the East India Company held the monopoly of manufacturing salt in Bengal. In 1863 private individuals were allowed to manufacture salt, and from that time up to 1898 salt used to be manufactured in India. In that memorable year 1898, manufacture of salt was prohibited in India. It is a historical fact which nobody can deny. From that year foreign salt captured Bengal's market and the people of Bengal have become accustomed to consume foreign salt of a refined quality and have been importing it year after year. From several government reports it appears that Bengal imports about five to six lakhs of tons of salt annually. No other province in India imports so much foreign salt——

Mr. PRESIDENT: I would request the honourable member to remember that he is now speaking in reply to the debate and is not making his first speech. All the honourable members who have spoken on this resolution have supported the resolution and the Hon'ble Minister has also agreed to forward a copy of the debate on the resolution to the Government of India. Therefore, the honourable member need not cover the same ground over again. He can only speak now by way of a suitable reply to the debate on this resolution.

Khan Bahadur ATAUR RAHMAN: We hope the Hon'ble Minister will not forward it simply like the post office.

Mr. NUR AHMED: In reply to the remarks made by the Hon'ble Minister, I must say that we want the same facilities for the manufacture of salt as are being enjoyed by Madras. In Madras, brine is allowed to pass into shallow tanks and then to evaporate. Salt manufactured in this way in Madras villages are allowed to be sold in the market. There are different systems of salt manufacture in Madras. First, there is the monopoly system under which Government issue licences to individuals to manufacture it. Salt is manufactured on condition that the salt so manufactured would be sold to Government at a price fixed by Government. Another system is the licence system under which Government allow individuals to manufacture salt and sell it at the market price. There also the Government may force the manufacturer to sell the whole or any portion of the salt manufactured

to Government. In Madras, Government have the power of supervision and control over the manufacture of salt by officers who give necessary instructions and fix the standard of purity——

Mr. PRESIDENT: The Hon'ble Minister wanted to know from the honourable mover what are the facilities that are given to Madras by the Government of Madras but which are denied to Bengal. I would ask Mr. Nur Ahmed to enumerate the facilities enjoyed by Madras.

Mr. NUR AHMED: Sir, in Madras, Government purchase the salt from the individual manufacturers; they appoint experts who go round the villages and give necessary instructions to people about salt manufacture. Government have also fixed the standard of purity and also take steps to see that the prices are maintained at a reasonable standard——

Mr. PRESIDENT: Order, order. What you have enumerated are facilities that are given by the Madras Government; but your resolution, as worded, refers to facilities which the Government of India have given to the people of Madras but which are being denied to the people of Bengal. The Hon'ble Minister desires you to enumerate those facilities..

Mr. NUR AHMED: Sir, the Government of India have allowed the people of Madras to manufacture and sell salt to others. In Bengal that has not been done. Here, by the Irwin-Gandhi Pact people living in villages adjoining the sea-shore can manufacture it only for their own consumption; but they cannot take it to the market and sell it. The Government of India also give substantial grants to salt manufacturers in Madras, and they can also have the advice and instruction of expert officers. These are the facilities which have been given to Madras, and I would ask the Government of Bengal to urge upon the Government of India to extend the same to Bengal as well.

With these words, Sir, I would request the House to accept my resolution.

Mr. PRESIDENT: The question before the House is: that this Council is of opinion that the Government of Bengal should make a representation to the Government of India urging on them the necessity of giving at least similar assistance, facilities and concessions for the manufacture of salt on a commercial and industrial basis in Bengal as they (Government of India) have given and are giving to Madras.

(The resolution was agreed to.)

Mr. AMULYADHONE ROY: Sir, before I move my Resolution may I know whether a Whip has been issued by the Treasury Benches to the members of the Coalition Party to oppose my resolution?

Mr. PRESIDENT: Order, order. You move your resolution.

Mr. AMULYADHONE ROY: I beg to move: that "this Council is of opinion that a committee consisting of not more than seven members be appointed by the Government of Bengal to report on the present condition of educational advancement of the Scheduled Castes in the province and to make recommendations with a view to finding out ways and means for speedy progress in this direction."

Sir, the fate of my resolution is already known to me as I understand that a Whip has been issued to the members of the Coalition Party to oppose my resolution. (Rai Sahib JATINDRA MOHAN SEN: Are you afraid?) One of my honourable friends is asking me whether I am afraid. I may tell him and the Government that I am not a man to be cowed down by any man in the world. ("Hear!" "hear!" from the Coalition Benches.)

Sir, the term "Scheduled Castes" is a creation of the Government of India Act, 1935. Before that we were known as depressed or backward community. But, Sir, the definition varied from time to time. As a matter of fact, these Scheduled Castes are members of the general Hindu community suffering so long from social, political and intellectual backwardness. They are a paralysed part of the Hindu society which require amelioration of their condition and advancement in other respects. On account of their backwardness and on account of their superstition they are suffering from inferiority complex.

Sir, I have carefully scrutinised several Government reports but I am sorry to tell you that there is not a single report which can help us with regard to facts and figures which are essential for promoting the cause of education of the Scheduled Castes. Sir, although the principle of granting special educational facilities was recognised about a century back, nothing has been done by the Government as yet. Sir, even the Court of Directors of the East India Company laid down the principle that caste would not be a bar to admission to the schools, subject to some limitation.

Then, Sir, the Education Commission of 1882 recommended the establishment of special schools for students of the backward communities. But, Sir, none of these reports investigated into the cause of the backwardness of our community, nor they pointed out the remedy. If we look to the records of a more recent date, I mean the Calcutta University Commission's Report, that also does not help us. The

Calcutta University Commission's Report, known as the Sadler Commission's Report, accorded a very brief treatment so far as our communities are concerned. Then, Sir, even leaving aside the Sadler Commission's Report, we come to a document which is known as the Ninth Quinquennial Review on the progress of education which was published in the year 1937. We find that although this report cover a period of 9 months of the administration of the present Ministry, the term "Scheduled Castes" cannot be found within the four corners of this book. That book refers to some figures relating to the backward classes but it then says that the figures are of doubtful value for comparative purposes. Therefore, Sir, I submit to the House that the actual condition with regard to the educational advancement of our community cannot be found in any authoritative statement or record published by the Government from time to time. I think, Sir, poverty, social factors and lack of encouragement on the part of the Ministry are undoubtedly the causes of the backwardness of my community. So far as my friends belonging to the Moslem community are concerned, Government is in a position to know the real condition of the Moslems from the report known as "Moslem Education Advisory Committee." As far as I have gathered, no facts and figures are available from any document whatsoever and I doubt very much if the Government has in its possession materials which are essential for improving the cause of education of the Scheduled Castes Community.

Coming to the constitution of the committee, Sir, I beg to point out that I do not want the committee which the Government have already appointed for political purpose. Most of the members belonging to the Coalition Party have been provided there for reasons better known to them and known to us also. What I mean is this, that I want that an expert committee should be appointed in order to go through the whole question and investigate the causes and point out the remedies and that this committee should be in a position to advise the present Ministry, or for the matter of that, the Government to adopt a policy which will really promote the cause of education of our community.

Now, Sir, I do not like to take the time of the House any longer but in all seriousness I ask one question to Sir Bijoy Prasad. Why are they determined to oppose this resolution? Is this resolution of a communal character? Or does it relate to party politics?

Mr. PRESIDENT: Why do you assume that they are going to oppose?

Mr. AMULYADHONE ROY: They have already issued a written whip so far as my information goes.

Mr. ABUL QUASEM: Is it permissible for any member belonging to any party to enquire of the President as to what particular whip

has been issued on any particular question by any party? Is not that a confidential matter?

Mr. PRESIDENT: I have ruled that point out of order. Mr. Roy, I can give you protection that your speech may not be interrupted, but the Chair can never assure you that your resolution will not be opposed.

Mr. AMULYADHONE ROY: May I enquire of the Hon'ble Minister if anything comes to our notice, should we shut our eyes?

Mr. PRESIDENT: The honourable member may take it for granted that the honourable members of the House have the freedom of speech and freedom of vote.

Mr. AMULYADHONE ROY: But, Sir, this is a fact which I have already known and which I have already seen.

Mr. PRESIDENT: As I have once before held, the parties are entitled to advise their members in what way to vote but it is also to be assumed that the honourable members are free to vote as they like even against the advice of their Party.

Mr. AMULYADHONE ROY: Sir, my grievance is that they have issued the whip before I have submitted my points. (Mr. MESBAHUDDIN AHMED: Why do you see papers lying on the table?) I am not going to take instruction from the Parliamentary Secretary sitting over there.

Therefore, in all humility I would request Sir Bijoy Prasad not to oppose this resolution which is not of a communal character, nor does refer to party politics. It is a resolution which will benefit a community which is down-trodden for ages and ages, and I would again appeal to him to accept the resolution and show their sincerity and moral courage in helping a community which is really in need of education.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Resolution moved: that—

"this Council is of opinion that a committee consisting of not more than seven members be appointed by the Government of Bengal to report on the present condition of educational advancement of the Scheduled Castes in the province and to make recommendations with a view to finding out ways and means for speedy progress in this direction."

Maulvi ABUL QUASEM: Mr. President, Sir, I have had the honour and privilege of having known my friend the mover of this resolution for a pretty long time. Both of us were privileged enough to be members of the old Legislative Council. We find ourselves again after a time as M.L.C.'s in the present Legislative Council, though in two opposite parties. I hope my friend will excuse me if I happen to make any remarks which prove unpleasant to him. First of all, I would like to tell him that he should not have referred to a whip issued by the Chief Whip of the Coalition Party. Such reference was entirely irregular and unwarranted. Whenever a matter comes up before the House every party has got to take deliberations on it and that party after consultation amongst its members arrives at a particular decision as to the attitude it is going to adopt towards it. (Mr. RANAJIT PAL CHOUDHURY: Why should it be *ex-parte*?) Decisions of the parties are always *ex-parte*. No other party is called into consultation when a subject is discussed. Congress members never invite us to their deliberations. If they showed the example, we might consider whether we might emulate their example.

Now, I find my redoubtable friend Mr. Amulyadhone Roy has no faith in the strength of his own cause. He should not have exhibited —may I use the word, "defeatist complex"? He has displayed the spirit of defeatism because of his knowledge of a certain whip that has been issued by a party in this House. If he had real faith in the cause which he has adumbrated on the floor of this House, if he knew that his cause was very strong, no party could have taken up a wrong attitude with regard to his proposal. But I confess he has given me the impression that he has no faith in his own motion. Therefore, he is falling foul of Sir Bijoy Prasad, of the Coalition Party, of the whip issued and of everybody concerned. Well, Sir, Mr. Amulyadhone Roy forgets that he is not the only well-wisher and worker in the cause of his own community. He should not forget that there are two distinguished members of the Scheduled Castes community in the present Cabinet of the Bengal Government. They are as much zealous in the cause of their community as Mr. Amulyadhone Roy claims to be. (Mr. AMULYADHONE ROY: They are condemned.) I assure my friend, Sir, that when as a party we say that we are not in a position to accept the resolution as moved by him, it is not because we are not in sympathy with his underlying motive. Sir, the Scheduled Castes community is undoubtedly a backward community in Bengal. I, Sir, speaking as a Muslim, can have nothing but sympathy for any backward community in Bengal. We, Muslims, do desire advancement. We Muslims do desire facilities which we have not enjoyed in the past and the want of which is the cause of our backwardness. We do not wish to deny any backward community anything that we wish to enjoy for ourselves. The Coalition Party, it is a fact, is backed strongly by the Muslim community and the Muslim community has been very

strong in their support of everything reasonable which goes to the advancement of the cause of the Scheduled Castes community. We have heard on the floor of this House from the side of the Government that there is a standing committee presided over by a high and responsible Government officer who is an expert in education and which consists of distinguished members of the Scheduled Castes community. That committee is charged with the duty of looking after the educational interests of the Scheduled Castes community. Now, the Scheduled Castes community is scattered all over Bengal and not in the same proportion. Their difficulties, their needs and their grievances are not the same in every region and in every district of Bengal. They have got to be found out and this committee is carefully and sympathetically going into all these difficulties. My friend has said that he has no faith in this committee set up by Government. My friend has no faith in any committee which is set up by the present Government and he has no faith in the two distinguished members of his own community in the Cabinet, whom he will not countenance for reasons of his own, possibly because he feels that Mr. Amulyadhone Roy alone is fitted and competent to shape the welfare and advancement of his own community. Anything done by others in this behalf is nothing but wrong done to the community: so my friend seems to think. He appears to labour under the impression or rather the conceit that he is the only well-wisher and sincere worker in the cause of his community and that there is no other worker in this field. Well, Sir, he cannot expect others to share his conceit. We, Sir, of the Coalition party, feel that the Scheduled Castes community should have every legitimate grievance remedied; we, members of the Coalition party, always look up to Government to do everything reasonable and possible for the good of this community and we are satisfied that everything reasonable and possible is being done. Government are very vigilant that every good thing that should be done for this community is done. Sir, Mr. Amulyadhone Roy asks Government to do something which Government are already doing. When he proposes that seven members should be appointed by the Government of Bengal to report on the present condition of educational advancement of the Scheduled Castes in the province and to make recommendations with a view to finding out ways and means for speedy progress in this direction, he asks for something which is already known to Government and which Government have already done or are seeking to do. There is, as I have said before, already a committee consisting of members of Mr. Amulyadhone Roy's community who know where the community's shoe pinches, and according to their advice Government are trying to provide money to remedy their grievances. I do not know, therefore, why Government should be asked to appoint a special committee consisting of seven members. Now, Sir, may I humbly ask one question of my friend, Mr. Roy? If

he has no faith in the existing committee, how can he logically ask Government for the appointment of seven members to form another committee and how can we take it that their report would be acceptable to him? He leaves the choice of these seven members to Government. If Government appoint all the seven members, I do not understand how can he, with his lack of faith in the present Government, have any faith in the report of that committee? I submit, Sir, the honourable mover's attitude is self-contradictory. We, as a party, are opposed to the motion because of the reasons I have given, and because we are satisfied that the community's interests are being very well looked after by the two distinguished representatives of that community in the Cabinet and also by the committee which has been specially appointed to go into the question of their educational advancement. I think there is no need for acceptance of this resolution, and I oppose it.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I had no desire to intervene in this debate; I have nothing but full sympathy for the natural aspirations of the Scheduled Castes people. But certain questions have been put to us and certain imputations have been made against us that our party has committed an unpardonable crime by issuing a whip which, according to Mr. Roy, should not have been issued without consulting the other parties in the House. He has also complained that the issuing of a party whip involves an *ex-parte* decision. May I ask Mr. Roy whether he and his party have such a system as issuing a party whip; whether they have a whip of their own; whether they issue any whip to their members; and whether they consult any other party before issuing a whip; whether they have ever come to the House after making up their minds with regard to any question; and whether they defer their decision till they have an opportunity to hear all sides of the House? The necessity of a party whip is this that different members of a party have necessarily different minds, but they have to come to certain conclusions. It is rare for any set of intelligent and independent men to agree exactly on any controversial matter. They, therefore, agree to abide by the majority decision, though they come to the decision on a provisional basis. Sir, it is not an unusual thing in this House for our party to hear arguments and then change our decision in a proper case. We have done so recently in connection with the Co-operative Societies Bill. I submit there is no harm in coming to a provisional decision beforehand. It is a time-honoured custom all the world over for parties to privately discuss the subjects that are coming up for consideration. The *pros* and *cons* are carefully weighed and a provisional decision is arrived at. It enables the members to intelligently follow the debate though they do so with an open mind. This is also the practice with

the Congress group. I believe that the crime with which we are charg ed has been committed by the Congress group ever since they came t this House, but we never complained on that score.

Now, Sir, the difficulty from which the Scheduled Castes suffer i that they are not united. I think they have never been injured b their opponents; in fact, I believe, they have no opponents. Th difficulty which seems to me to beset their path is not the hostility o any opponent but disunity amongst themselves. There are no les than thirty members of their community in the other Chamber. I cannot help feeling that if those thirty members could have unite themselves together and put their united pressure on public opinio and on Government, they could have made themselves effectively felt.

With regard to the merits of the resolution itself, the Coalitio party as a whole has sympathy with it. But the difficulty i accepting it is this. There is already, Sir, a committee which ha gone into this very question and has submitted its report whic Government are now considering. Therefore, the passing of thi resolution would be to give a complete go-by to what that committe has done for the last three years. This resolution amounts to a vot of no-confidence in that committee. We cannot do that withou materials before us. As has been justly pointed out by a member o our party, it is inconsistent for the honourable mover to ask Government to set up a new committee while he has really no faith in the Committee which has already been set up by the same Government, to consider a subject identical with the present. The new Committee will supersede the old committee and will multify the work done so far. This is the implication of the resolution. Sir, we have full sympathy with the sentiments expressed in the resolution but, for the reasons which I have explained, it is difficult for us to accept it in its present form.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have very little to add by way of reply to what has been said by the previous speakers. Sir, if I may venture to offer one piece of advice to my friend the mover of this resolution, it is that confidence in victory is half the battle won. He has started with a feeling of pessimism, as was observed by Mr. Abul Quasem; and that had disheartened his supporters rather than encouraging them. Sir, Government, as has already been pointed out by some of the speakers before me, appointed a committee as early as 1938, not a committee of seven as has now been proposed, but a committee of fourteen with a member of the Scheduled Castes as Secretary to the committee.

Mr. HUMAYUN KABIR: When was that committee appointed?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: In August, 1938.

That committee went into the whole question of Scheduled Castes' education and submitted a report in which they made valuable recommendations. Government are at the present moment examining those recommendations.

Mr. LALIT CHANDRA DAS: What are those recommendations?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I shall enumerate some of the recommendations made by the committee. The committee have suggested that more scholarships should be provided for the members of this community, that separate hostels should be established for them, and that seats should be reserved for Scheduled Castes students in educational institutions. Government are now examining those recommendations. Government have not only shown considerable solicitude for the educational advancement of this community, but they have shown also practical sympathy by making a grant of Rs. 5,00,000, the entire amount of which, I may inform the House, has been spent already.

Mr. LALIT CHANDRA DAS: What about the ten lakhs?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: For giving effect to the recommendations of this special committee more money will be allotted next year, if necessary, and more money, if necessary, will also be spent by re-appropriation this year.

So, there is absolutely no justification for the criticism that Government are unsympathetic and are doing nothing. What the Court of Directors did in the good old days and what the Education Committee said in 1880, the present Government are not responsible for. What I can say without fear of contradiction is that the present Government have shown considerable sympathy for the educational advancement of the Scheduled Castes. We do realise that the advancement of the whole country depends to a large extent on the advancement of the members of the Scheduled Castes. The country as a whole cannot certainly advance much beyond the progress of the members of the Scheduled Castes, and Government are by no means oblivious of that fact.

With these words, Sir, I have to oppose this resolution, because no useful purpose would be served by setting up another committee. It will mean waste of time and waste of labour.

Mr. AMULYADHONE ROY: Sir, my friend, Khan Sahib Abul Quasem, has said that he is quite in sympathy with this resolution.

Mr. LALIT CHANDRA DAS: He is not a Khan Sahib.

Mr. AMULYADHONE ROY: I have called him a Khan Sahib because I am quite sure he will be made a Khan Sahib very soon. He is not expecting a Khan Bahadurship, as he repudiated the title of Khan Bahadur the other day. However, Sir, to come back to my point, when he says that he is quite in sympathy with my resolution, I ask him in all seriousness why not come and vote with me. If you are really so sympathetic, why do you keep yourself so aloof and oppose this resolution?

Maulvi ABUL QUASEM: Because what you want you have got.

Mr. AMULYADHONE ROY: My friend has said that a committee has already been appointed and that it has already done its work. I know that that committee was appointed for patronising the members of the Coalition Party. That committee was set up after the no-confidence motion was tabled in the Legislative Assembly, and most of the members of that committee belong to the Coalition Party of the Assembly.

Maulvi ABUL QUASEM: Do you wish to join that party?

Mr. AMULYADHONE ROY: Sir, my idea is different. I do not want a committee of that character. What I want is a committee of the type of the Muslim Education Advisory Committee—a committee which will go into the whole question, investigate into it, consider all facts and figures and then advise Government with regard to the future educational advancement of the community concerned. It is such a committee which I have in mind.

Now, Sir, my honourable friend, Mr. Abul Quasem has said that the interests of the Scheduled Castes are protected by the two distinguished members of the Bengal Cabinet. Sir, I have already told this House that these two distinguished members of the Bengal Cabinet were openly convicted and publicly condemned by two thirds of the members of the Scheduled Castes, and one of them was even privately condemned before Mr. Fazlul Huq by almost all the thirty members of the Scheduled Caste group in the Legislative Assembly. Up till now they have not made any contribution whatsoever to the advancement of our community except increasing their bank balances, and one of them has gone so far as to overstep the other members of the Cabinet with respect to favouritism, nepotism and jobbery; and these are the qualifications which the two distinguished members of the Cabinet belonging to the Scheduled Castes have got.

Sir, the Hon'ble the Leader of the House has said that a special grant of Rs. 5,00,000 was already granted and has been spent. You know, Sir, that a cut motion was moved in the Bengal Legislative Assembly and when, like the other day, it was about to be carried, the Hon'ble the Chief Minister suddenly promised to provide money in the supplementary budget.

The Hon'ble Mr. H. S. SUHRAWARDY: In fact, Sir, no motion was ever about to be carried.

Mr. AMULYADHONE ROY: Then, Sir, the no-confidence motion came, and the Ministry under threat of the no-confidence motion, in order to oblige even their own supporters and to bring the members of the opposition to their side, promised to any and every member belonging to the Scheduled Castes that Rs. 5 lakhs would be provided in the supplementary budget. Thus, being under compulsion they were compelled to grant Rs. 5 lakhs. The other day the same thing was promised. The Hon'ble the Leader of the House opposed in the manner as he is doing now the resolution in this House but eventually they had to suffer a defeat in the Lower House on the same question within a couple of hours. Therefore, whether you accept my resolution or not, I still request you to go into the question thoroughly, to investigate the causes which are detrimental to the improvement and progress of the Scheduled Castes and possess all the materials that are necessary for improving the cause of education.

With these words, Sir, I request my colleagues here to support my resolution.

Mr. PRESIDENT: On the question of issuing of whips by Parties, I quote from Michael MacDonagh's book entitled "Pageant of Parliaments": "This practice of issuing whip was far older. The Secretary to the Treasury looked after the attendance of the supporters of the Government, and his communications were known as 'Treasury Notes'. At that time the practice was conducted more or less secretly, as if it were something that did not quite fairly come within the playing of the game, or was out of harmony with the boasted independence of Members. A motion condemning the practice was moved in 1743, but was negatived on a division. It ceased to be regarded as an underhand manœuvre in the later years of the eighteenth century, and from that time has been *openly pursued by both Parties of the Parliament.*"

The question before the House is that—

"This Council is of opinion that a committee consisting of not more than seven members be appointed by the Government of Bengal to report on the present condition of educational

advancement of the Scheduled Castes in the province and to make recommendations with a view to finding out ways and means for speedy progress in this direction."

(The resolution was negatived.)

Mr. NUR AHMED: Mr. President, Sir, I beg to move that this Council is of opinion that the Government of Bengal should convey through proper channel to His Majesty in Council the humble prayer of this House that His Majesty's Government in England be pleased to rescind the recent amendment to the Government of India (Distribution of Revenues) Order, 1936, reducing the allocation of revenues to Bengal as settled by the Niemeyer's Award and to further modify the said Government of India Order, 1936, in order to ensure allocation to the Province of Bengal of her due share of central revenues accruing from any tax on income other than the agricultural income in view of the bad state of finances of this Province.

Mr. President, this is a most important question for Bengal. Bengal with its largest population has been given a meagre contribution and owing to this meagre income and want of resources many nation-building projects could not be undertaken and Bengal's progress is being retarded at every stage. Sir, before 1919 the Central Government used to control the finances of all the provinces. After the passing of the Government of India Act, 1919, as a result of the much-condemned Meston Award, the finances were separated and provinces enjoyed to some extent financial autonomy. But that much-condemned Meston Award did great injustice to Bengal. It gave very unjust and inadequate contribution to Bengal and practically took away the major portion of Bengal's income. Since then Bengal tried to adjust her house and retrenchment committee after retrenchment committee had to be appointed and expenditure had to be retrenched in every department with the result that many of the beneficial measures could not be either undertaken or had to be abandoned. After the inauguration of the provincial autonomy in 1937 it was expected that Bengal's position will be better and Bengal will be in a position to show before the world the success of the provincial autonomy. The Government in England was very eager to secure the successful working of the provincial autonomy. As a result of that, various sub-committees, such as Peel Sub-Committee, were appointed to go into this very important question of provincial finance and allocation of finances between the Centre and the Provinces. Sir Otto Niemeyer was appointed to investigate into this very important question. After due investigation he submitted his report in April, 1936, and as the Niemeyer Award has been referred to in this resolution, I think it is necessary to say a few words about his suggestion which is embodied in that report. He suggested cash subvention to some provinces but in the case of Bengal he suggested

cancellation of all debt incurred by the Provincial Government before April, 1936. He suggested distribution of 12½ per cent. of jute duty to the jute-growing provinces and further directed that out of the proceeds of the divisible income-tax proceeds, the Central Government should take 50 per cent. and out of the other 50 per cent. Bengal will get 20 per cent. as its share but in accordance with section 138 of the Government of India Act, he suggested two five-year periods. In the first five-year period, the Centre would retain its own share of 50 per cent. out of the proceeds of the divisible income-tax receipt amounting to Rs. 13 crores. If there be any deficiency out of that 13 crores, that will be made up by a portion of the share distributable to the provinces and the contribution out of the railway revenues. In the second five-year period, the portion to be deducted out of the provincial share should be gradually reduced so that at the end of ten years the provinces might get their full share of contribution. But the recent amendment has modified all these suggestions which were embodied in the India Order in Council, 1936. The relevant portion of that Order runs as follows:—

> "The first of the periods to be prescribed by His Majesty in Council under sub-section (2) of section 138 shall be five years from the commencement of Part III of the Act and the sum to be retained by the Federation under the sub-section shall in each of these years be either the whole of the money assigned by sub-section (1) of the said section to provinces and States or such part thereof as will together with the Federation's share of the divisible net proceeds of the taxes on income for that year and the sum if any to be brought into account by the Federation under sub-paragraph (3) of this paragraph (Railway Contribution) amounting to Rs. 13 crores, which ever is less."

As has been observed, the first and the most important thing effected by that notification is the contribution out of the railway revenues has been taken away altogether from the calculation of the sum to be retained by the Centre and it has been also fixed that during the three years from the beginning of 1939-40 to 1942 Central Government will retain a fixed sum of Rs. 4½ crores out of the provinces' 50 per cent. share of divisible part of income-tax. The result has been that Bengal, which according to the original Order expected to get in 1939-40 Rs. 99 lakhs, will now get only Rs. 55 lakhs, and that its share will be reduced still further in two successive years. As a result of that, during these three years Bengal will lose a contribution of Rs. 4½ crores altogether. That is not all. During the second five-year period, deduction will be made on the basis of the last year of the first five-year period. So, during the second period also Bengal will have to lose. It is very unjust that Bengal, which has drastically retrenched

its expenses, which has reduced the pay of its officers and which has done everything to adjust its budget, should lose such a big sum which is sure to cripple the resources of this province. That means that many of the nation-building work will have to be abandoned. So, in this vital matter for Bengal, an appeal should be made to His Majesty's Government to modify the Order in Council so that Bengal can get her legitimate share for her progress.

With these words, Sir, I appeal to the House to accept my resolution.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that the Government of Bengal should convey through proper channel to His Majesty in Council the humble prayer of this House that His Majesty's Government in England be pleased to rescind the recent amendment to the Government of India (Distribution of Revenues) Order, 1936, reducing the allocation of revenues to Bengal as settled by the Niemeyer Award and to further modify the said Government of India Order, 1936, in order to ensure allocation to the province of Bengal of her due share of Central Revenues accruing from any tax on income other than the agricultural income in view of the bad state of finances of this province.

The Hon'ble Mr. H. S. SUHRAWARDY: I had hoped, Sir, that a resolution of this importance would have been supported by speeches from all parts of the House; but in view of the fact that this question has been in the forefront for some considerable time and the members of all the parties agree with its terms, I shall proceed to state the views of the Government on the matter.

Nobody welcomes this resolution more than the Finance Minister of the Government of Bengal. We are actually in a very parlous state. The recent amendment of the Award by the Order in Council has deprived provincial Governments, and particularly the Government in Bengal, of the ordinary annual increments which would have come to us from an increase in Railway earnings and an increase in the income-tax. It is a matter of doubt whether the provinces should get advantage of the surcharge which has recently been placed on Railway freight; but I think that the provinces can legitimately claim their share of the ordinary increase in income-tax, and to some extent as well in the excess profits duties. In the coming year, there is little doubt that we shall have to face a considerable deficit. This year, we started with a deficit of Rs. 53,00,000 which has already swelled to more than a crore. In the coming year, owing to shipping difficulties and the shrinkage of demand for jute goods and for raw jute, the contribution to the provincial Governments, and particularly to Bengal, in the matter of jute export duty will be considerably less than this year. We have

also a grievance regarding the allocation of income-tax; we have been given only 20 per cent., whereas the contribution of Bengal to the general income-tax is considerably greater, and certainly Bengal was entitled to a larger share. These are matters of which everyone is aware, and I think that we are entitled to press our claims before His Majesty's Government and the Government of India. It is strange that there is a notion in high circles, and certainly amongst all the provinces, that the Otto Niemeyer Award has conferred considerable benefits on the Government of Bengal, and that Bengal has been treated too well under that Award. With this idea attempts have consistently been made by all the provinces to mulct the Government of Bengal in all possible ways and to turn down all proposals emanating from us for a greater share in the income-tax and in the jute duty. But the Otto Niemeyer Award did us less than bare justice. The Meston Award had reduced us to such a state of paralysis that the Government of Bengal, far from being able to take up any measures relating to nation-building departments, had to curtail expenditure in every direction. It went in for retrenchment of such an unprecedented magnitude and on such a large scale that no province has hitherto embarked upon. Honourable members in the first flush of their membership of the Council have all attempted to bring in measures of retrenchment. We have examined all the proposals, and we have found that owing to pressure of financial stringency the late Government went in for retrenchments and for revisions of pay to such an extent that it has left little room for further retrenchment and further revisions of pay, so much so that on a comparison between the scales of pay as exist in this province and the scales of pay as exist in other provinces—even after they have been scaled down by the Congress Governments—it has been found that the scales of pay prevalent in this province are lower than in the other provinces. This is what we had to go through, and the Niemeyer Award merely wiped away our deficit, or has removed from the shoulders of the Government of Bengal the burden of a debt which it was impossible to repay. It can hardly be stated to have done more than bare justice to this province. The only difficulty, Sir, that stands in the way of our hopes of a revision is the fact that His Majesty's Government and the Government of India are engaged in the prosecution of a war. The defence requirements of the Government of India are increasing daily, and more and more money is required in its budget in order to meet the cost of a very expensive war. I doubt very much, in spite of our pressing necessities, in spite even of the fact that we may have to face a very ruinous condition of affairs next year, whether we can hope for a reversal of this Order in Council as long as the war lasts; but there is no reason, Sir, why we should not press before His Majesty's Government and the Government of India what is our just due. This ought always to remain in the forefront of our programme, and I feel, Sir, that if they are out to

do the barest justice to this province, the earliest steps should be taken to reverse the present arrangement. I, therefore, Sir, accept this motion and shall be very glad to forward the debate to His Majesty's Government, as asked for.

(At this stage, the Deputy President occupied the Chair, the Hon'ble President having vacated the same.)

Mr. NUR AHMED: In view of what the Hon'ble the Finance Minister has said just now, I have nothing further to add by way of a reply.

Mr. DEPUTY PRESIDENT: The question before the House is the resolution of Mr. Nur Ahmed: that this Council is of opinion that the Government of Bengal should convey through proper channel to His Majesty in Council the humble prayer of this House that His Majesty's Government in England be pleased to rescind the recent amendment to the Government of India (Distribution of Revenues) Order, 1936, reducing the allocation of revenues to Bengal as settled by the Niemeyer Award and to further modify the said Government of India Order, 1936, in order to ensure allocation to the province of Bengal of her due share of central revenues accruing from any tax on income other than the agricultural income in view of the bad state of finances of this province.

(The resolution was agreed to.)

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I beg to move that "this Council is of opinion that representative committee, consisting of members of the Hindu community, be appointed to draft a Bill to provide for better governance, administration and supervision of Hindu public religious charitable funds to which the Hindu public customarily has to contribute and has contributed".

Sir, at the outset I may tell the House that this Resolution deals with the Hindus and the Hindu community only and as such the Hindu members of this House are more interested; but I would welcome an expression of their opinion on it by members of other communities as well.

The resolution deals with religious and semi-religious matters and as such it requires very careful handling so that the religious susceptibilities of the people may not be not touched and wounded. This resolution consists of two parts—one recommends the appointment of a representative committee to draft a Bill while the other recommends the line on which it should be drafted. Before taking these two parts separately, I propose to make a few observations with regard to the charitable and religious endowments. I do not propose to take the time of the House in describing the details of these endowments, nor

do I propose to describe the conditions of their management. It is well-known to all of us that there are hundreds and thousands of such endowments in this province. It is also well-known to everybody here, be he a Hindu, Muslim, Jain or belonging to any other community, that men have in the past bequeathed large sums of money for the establishment of public temples and other religious institutions for the welfare of the general public and the society.

There are religious endowments, there are temples, magnificent temples of considerable wealth and magnitude. I do not mean to say that all these institutions are managed wrongly or they are not well-managed. Many of these properties are being properly managed, but in very many cases the properties are mismanaged and misappropriated by *Mohuntas* or others who happen to be in charge of the said properties for purposes other than those for which the institutions were originally established. So far as these institutions are concerned, some of them have gone from bad to worse and there is every likelihood that after a short time these endowments with all their properties will be gone and extinguished. If a Trustee takes interest so long as he lives, he manages it efficiently and properly but after he is dead and gone, probably his successor may not take that amount of interest in the institution as his predecessor Trustee used to take. In such cases, there is a danger and harm and injury to those institutions. It is quite necessary for us and it is quite obligatory on us, sharing the same faith and religion, that we should see to their proper management and control. We should see that the original intention of the donor is fulfilled and performed. If it is not performed properly, if the management is not carried out in a proper manner, we are responsible for that in the eyes of Law and God.

Mr. DEPUTY PRESIDENT: Order, order. Raja Bahadur, will you take long to finish your speech?

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I will take about 10 minutes or so.

Mr. DEPUTY PRESIDENT: In that case, I will adjourn the House now. The Council stands adjourned till 2-15 p.m. on Wednesday, the 18th September, 1940.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 18th September, 1940.

Members absent.

The following members were absent from the meeting held on the 13th September, 1940:—

(1) Mr. Kader Baksh.

(2) Mr. Narendra Chandra Datta.

(3) Mr. Kamini Kumar Dutta.

(4) Khan Bahadur Alhadj Khwaja Muhammad Esmail.

(5) Mr. Mahomed Hossain.

(6) Khan Bahadur Syed Muhammad Ghaziul Huq.

(7) Alhadj Khan Bahadur Shaikh Muhammad Jan.

(8) Maulana Muhammad Akram Khan.

(9) Mr. W. B. G. Laidlaw.

(10) Sir T. Lamb.

(11) Mr. Naresh Nath Mookerjee.

(12) Dr. Radha Kumud Mookerji.

(13) Khan Bahadur Mukhlesur Rahman.

(14) Rai Sahib Jogendra Nath Roy.

(15) Mr. J. B. Ross.

(16) Mr. W. F. Scott-Kerr.

B. G. Press—1940-41—8417A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 18th September, 1940, at 2-15 p.m. being the thirty-first day of the Second Session, pursuant to section 62(*2*) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Administration of the Jagannath Intermediate College, Dacca.

116. Mr. RANAJIT PAL CHOUDHURY (on behalf of Mr. Kamini Kumar Dutta): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if there are any rules regarding the administration of the Jagannath Intermediate College, Dacca?

(*b*) If so, by whom were these rules framed?

(*c*) Are there any rules regarding the number of meetings that should be held of the Governing Body of the college during a year?

(*d*) How many meetings of the Governing Body were held since October, 1939?

(*e*) Why were not more meetings held?

(*f*) Have any appointments, either permanent or temporary, been made to the college staff since October, 1939?

If so, who made the appointments? Have the individual members of the Governing Body been consulted about these appointments?

(*g*) Is it a fact that at the last meeting of the Governing Body a resolution was passed forming a Sub-Committee to go into questions of grade, etc., of the college staff with directions to submit its report by December, 1939?

(*h*) Has this meeting of the Sub-Committee come off?

(*i*) Is it a fact that in spite of request by some members of the Governing Body, the Secretary of the college (the Principal) did not hold a meeting of this Sub-Committee?

(*j*) Is it a fact that the Governing Body of the college while recommending a second term of extension to the present Principal laid down that he should submit a medical certificate regarding his fitness for work? Was such a certificate submitted?

(*k*) Have the Government given a third extension to the present Principal? If so, have they ascertained whether he is physically fit?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq, Minister in charge of the Education Department): The following information has been supplied to me by the Principal of Jagannath Intermediate College:—

(*a*) and (*b*) There are no rules for the administration of the college. There are the "Jagannath College Account Rules" drafted by Mr. Cassells, C.I.E., I.C.S., the then President of the Governing Body, which with certain modifications were approved by Government.

(*c*) None.

(*d*) One.

(*e*) There was nothing of importance to be placed before a meeting.

(*f*) One temporary appointment in a leave vacancy was made by the President and members of the Governing Body by circulation.

Six other appointments—three on probation for a year and three purely temporary appointments were made at a meeting of the Governing Body.

(*g*) and (*h*) Yes.

(*i*) No.

(*j*) Yes. But later on the Governing Body decided that, as the Principal has been discharging his duties adequately a medical certificate as a proof of his physical fitness was superfluous.

(*k*) Yes. It was presumed by Government that the Governing Body was satisfied as to his physical fitness.

Appointments in the Jagannath Intermediate College, Dacca.

117. Mr. RANAJIT PAL CHOUDHURY (on behalf of Mr. Kamini Kumar Dutta): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if the present Principal of the Jagannath Intermediate College, Dacca, has a son on the college staff as a Lecturer in English?

(*b*) When was this gentleman appointed?

(c) Was the post to which he was appointed advertised in newspapers? If so, in what newspapers and on what date?

(d) Is it a fact that this son of the Principal was employed in the University of Dacca for some time? If so, when was he discharged and why?

(e) Is it a fact that this son was also employed by the Government in the Dacca Intermediate College? Why and when was he discharged from this college?

(f) Is it a fact that this son of the Principal was employed in the Eden Intermediate College? Why was he discharged from this college and when?

(g) Will the Hon'ble Minister be pleased to state if in this college there was a Lecturer in Mathematics named Mr. Rabindra Nath Sen?

(h) Is it a fact that Mr. Rabindra Nath Sen went to Edinburgh and got a doctorate?

(i) Is it a fact that after his return he found his occupation was gone though he acquired higher qualification?

(j) Will the Government be pleased to state as to why his services were terminated?

(k) Was there a Lecturer in English in the same college named Mr. Sunit Kumar Banerjee?

(l) Is it a fact that he too went to England for acquiring higher qualifications?

Is it a fact that he too found that his appointment was gone after his return to India?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): I have been given the following information by the Principal of the Jagannath Intermediate College:—

(a) Yes.

(b) In 1929.

(c) The post was not advertised.

(d) to (f) Yes. He was employed in the University of Dacca and also in the Dacca and Eden Intermediate Colleges temporarily in leave vacancies and there was no question of discharge in any case.

(g) Yes.

(h) He went to Edinburgh but it is not known whether he obtained a doctorate.

(*i*) and (*j*) The post held by this Lecturer was abolished during his absence but through oversight no formal notice of the abolition was sent to him. When this mistake was brought to the notice of the Governing Body they decided to give him a bonus of three months' pay in preference to the other alternative of restoring the post and of giving him three months' notice.

(*k*) and (*l*) Yes.

No, he resigned.

Arrests in Chittagong under the Defence of India Rules.

118. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state how many persons have been arrested in Chittagong under the Defence of India Rules up to the 5th August, 1940, and how many persons have been externed from Chittagong and movements of how many persons have been restricted under the said Indian Defence Rules up to the said period?

(*b*) How many of these persons are Muslims and how many are non-Muslims?

(*c*) Is it a fact that restrictions have been imposed upon free movements of Dr. Rahamatullah and M. Abdus Samad of Chittagong under the India Defence Rules on the ground that they were organising the Khaksar movement in Chittagong? If so, will the Hon'ble Minister be pleased to state if organisation of the Khaksar movement has been banned in Chittagong?

(*d*) Is it a fact that Dr. Rahamatullah is the agent for selling *Azad* and *Muhammadi* and *Star of India* and he is a staunch Muslim Leaguer?

(*e*) Will the Hon'ble Minister be pleased to state what are the offences committed by them for which their movements have been restricted and why they have been externed from Chittagong town?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) Nineteen persons have been arrested; 11 persons have been externed from the district and the movements of 62 persons have been restricted.

(*b*) Three are Muslims; the rest are non-Muslims.

(*c*) The movements of Maulvi Rahamatullah and Maulvi Abdus Samad have been restricted because they were inciting people to violence. The Khaksar organisation has not been banned.

(*d*) He is the agent for the *Azad, Muhammadi* and the *Star of India,* but I have no information as to whether he is a staunch Muslim Leaguer.

(*e*) The honourable member is referred to the answer to (*c*) above—only Maulvi Abdus Samad has been externed from Chittagong town.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether Dr. Rahamatullah and Mr. M. Abdus Samad of Chittagong were connected with the Khaksar organisation?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether in view of the Government of India notification recently issued, the Khaksar organisation will be banned?

The Hon'ble Khwaja Sir NAZIMUDDIN: No.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if the members of the Khaksar organisation are still taking to drilling there?

The Hon'ble Khwaja Sir NAZIMUDDIN: I may inform the House that the Government of India notification does not provide banning the organisation.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if any form of drilling is undertaken by the Khaksar organisation in Chittagong?

The Hon'ble Khwaja Sir NAZIMUDDIN: As far as I am aware, no such thing is being done after the promulgation of the Government of India notification.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if they took to drilling with uniform before the promulgation of the Government of India notification?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is possible.

Mr. LALIT CHANDRA DAS: Is it a fact that *Azad* and *Star of India* are papers of the Muslim League?

The Hon'ble Khwaja Sir NAZIMUDDIN: They support the policy of the Muslim League.

Mr. LALIT CHANDRA DAS: Therefore, is it not a fact that Dr. Rahamatullah and Maulvi Abdul Samad of Chittagong are staunch Muslim Leaguers?

The Hon'ble Khwaja Sir NAZIMUDDIN: May be they are Muslim Leaguers, but I have no information whether they are staunch or keen Muslim Leaguers.

Works of the District Boards.

119. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department kindly state—

(*a*) whether Government contemplate laying down a definite policy with respect to the maintenance of works of water-supply and communication under the control of each District Board by the respective District Boards in Bengal;

(*b*) whether Government contemplate also to lay down a policy in respect of the new works of the District Boards by which such works will be restricted only to the undeveloped areas; and

(*c*) whether Government propose to call a conference of District Board Chairmen and selected members to consider those matters or propose to form a committee to enquire into those and other kindred matters and report after examining the District Board members, and other responsible officials and non-officials in every district?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, Minister in charge of the Public Health and Local Self-Government Department): (*a*) and (*b*) Government have under consideration the question of the laying down of a policy in respect of the maintenance of works of water-supply provided out of grants made by the Central Government and from Provincial revenues and also of works of water-supply which are proposed to be carried out in connection with the comprehensive rural water-supply programme which is now under preparation.

Under the Bengal Local Self-Government Act, the maintenance of existing works and the construction of new works, of communications, are primarily the concern not of Government but of the District Boards themselves and the Act does not provide for any interference by Government in these matters except in cases of default by the District Boards in the performance of their duties, when the Divisional Commissioner may intervene under section 125 of the Act.

(*c*) No.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to (*a*), is the Government aware that there are also a large number of water-works in every district which were executed by the District Board? Should not Government see that these works are properly maintained?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is the function of the District Boards to maintain them.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: If the District Boards do not care to do anything for their maintenance, is it not the duty of the Government to do so?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I think that the obvious course for Government would be to supersede a District Board if it fails to maintain its water-supply on which a large amount of public money has been spent.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Government going to consider whether these things are being properly maintained in every district?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir. The whole thing is under the consideration of Government. There is already a comprehensive scheme under preparation.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the comprehensive scheme which Government is now preparing include schemes which have been executed with District Board money?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The whole problem is under review in connection with the comprehensive water-supply scheme of Government.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that in districts where local boards still exist there is no proper representation in the District Boards from every local board on account of the fact that the nominees sent do not represent all the subdivisions?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I submit for your consideration, Sir, whether this supplementary question arises out of the main question. I do not think it arises out of it.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: It has been said that it is the duty of the District Board, but there are cases where the local boards concerned are not represented there.

Mr. PRESIDENT: I think it would be proper to give notice of it as a separate question.

Point of Privilege.

Mr. RANAJIT PAL CHOUDHURY: Sir, may I rise on a point of privilege of the House? About a week or 10 days ago, I moved a motion for adjournment in connection with some developments in the Sibpore Engineering College. The Hon'ble Chief Minister then promised to make a statement thereon, whereupon the adjournment motion was withdrawn. The Hon'ble Chief Minister is, I understand, unwell at present and the Council session is coming to a close. May I know if it would be possible for the Leader of the House or some one else to make that statement on behalf of the Hon'ble Chief Minister?

Mr. PRESIDENT: I have been informed that the Hon'ble Chief Minister has not been keeping well. If it is possible for the Leader of the House to have necessary instruction from the Education Department and to make a statement as promised by the Chief Minister, he will, please, do so to-morrow.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I shall certainly put myself in touch with the department concerned, and, if possible, also with the Hon'ble Chief Minister; but I cannot give any assurance in view of the special difficulties involved in this matter.

Notice of amendment on Bengal Stock Brokers' Bill, 1940.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to give notice that I intend to move the following amendment to Mr. Hamidul Huq Chowdhury's motion that the Bengal Stock Brokers' Bill, 1940, be referred to a Select Committee, in the current Session of the Council:—

"That the Bengal Stock Brokers' Bill, 1940, of Mr. Hamidul Huq Chowdhury, be circulated for the purpose of eliciting opinion thereon by the 31st March, 1941."

Sir, I would request you to accept it at short-notice. It is only a motion for circulation.

Message from the Assembly.

SECRETARY to the COUNCIL (Dr. S. K. D. Gupta): Sir, I have received the following message from the Bengal Legislative Assembly:—

"That the Bengal Legislative Assembly at its meeting held on the 12th September, 1940, agreed to the Bengal Shops and Establishments Bill, 1940, without any amendments."

Obituary Reference.

Mr. PRESIDENT: Honourable members of the Council, before taking up the Order Paper of the day, it is my melancholy duty to convey to the House the news of the sad death of Mr. Surya Kumar Shome, member of the Indian Legislative Assembly representing the Dacca Division (non-Muhammadan Rural) Constituency, at his Calcutta residence this morning at the age of 69 after a protracted illness. Mr. Shome came prominently before the public eye in 1921 when he gave up a lucrative practice at the Mymensingh District Bar in order to join the non-co-operation movement which was launched under the leadership of Mahatma Gandhi. He was a staunch lieutenant of Deshbandhu Chittaranjan Das and was nominated as the Dictator of the Congress movement in this province after the arrest of his leader. During this period, it was my privilege to work in the closest collaboration with him in furtherance of the Congress programme and I can testify to the sacrifices and sufferings which he cheerfully underwent in the cause of the nation.

He was returned from Bengal in 1934 to the Indian Legislative Assembly where he distinguished himself as a sturdy champion of the cause of Bengal in all matters,—social, political and economic. In him this province has lost a conscientious and devoted public man.

May his soul rest in peace!

I would request the honourable members to rise in their places as a mark of respect to the memory of the deceased.

(The honourable members rose in their places.)

It will be my duty to convey a message of condolences to the members of the bereaved family.

The Bengal Co-operative Societies Bill, 1940.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Co-operative Societies Bill, 1940.

Fourth Schedule stand part of the Bill.

Fourth Schedule.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in paragraph (*b*) in the entry in column No. 3, against serial No. 1 in the Fourth Schedule of the Bill, after the word "Registrar", the words "or the Provincial Government" be added.

The object of my amendment is quite simple. The Bill now provides that when it is proposed to make an appeal against an order passed by the Registrar of Co-operative Societies, it is to be made to the Provincial Government and when such an order is passed by a person other than the Registrar, the provision is that an appeal should lie to the Registrar. My amendment makes an alternative suggestion that the appeal should be either to the Registrar or to the Provincial Government. My honourable friends here will find that when such an order will be passed by the Registrar, the provision is that such an appeal shall lie only to the Provincial Government. My proposal is that even when such an order is passed by any person other than the Registrar, the appeal should lie either to the Registrar or to the Provincial Government.

Mr. PRESIDENT: Amendment moved: that in paragraph (*b*) in the entry in column No. 3, against serial No. 1 in the Fourth Schedule of the Bill, after the word "Registrar", the words "or the Provincial Government" be added.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose this. My honourable friend has just now said that if an order of this character is made by the Registrar, the provision that we have made in this Schedule will show that the appeal will lie with the Provincial Government. He wants to suggest that the alternative provision should be made, but I would remind him of the provisions of clause 134 which has been agreed to by the House that in case there is any wrong done by the Registrar, the Provincial Government retains the power of correcting the mistake or righting the wrong the Registrar may have done. If this power be exercised by the Provincial Government, it will become an impossible task for the Provincial Government to deal with cases of thousands of village societies.

On this ground I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in paragraph (*b*) in the entry, in column No. 3 against serial No. 1 in the Fourth Schedule of the Bill, after the word "Registrar", the words "or the Provincial Government" be added.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in the Fourth Schedule attached to the Bill, in column 3, for the words "Provincial Government" wherever they occur, the words "the District Judge within whose ordinary original jurisdiction the society concerned or its members or person affected by the order lie or live" be substituted.

Sir, it is common knowledge that the Registrar is the Provincial Government's co-operative conscience or rather the keeper of co-operative conscience of the Provincial Government. So, when an order is passed by the Registrar, it will be farcical to appeal to the Provincial Government. If appeal is allowed against any order of the Registrar, it should be to the District Judge within whose ordinary original jurisdiction the society concerned or its members or persons affected by the order lie or live. Sir, orders that will be passed affecting a society are very important, for it will appear that the Registrar has got the power to order disqualification under section 25 or even pass an order under section 26 dissolving a managing committee and appointing a person to manage the affairs of the society. These powers and such other powers go to the very root of the co-operative societies and to their very existence. In such affairs, Sir, when the Registrar who will be the co-operative conscience of the Government passes an order, such an order should be made appealable not to the Provincial Government but to the District Judge.

With these words, Sir, I move my amendment.

Mr. PRESIDENT: Amendment moved: that in the Fourth Schedule attached to the Bill, in column 3 for the words "Provincial Government" wherever they occur, the words "the District Judge within whose ordinary original jurisdiction the society concerned or its members or person affected by the order lie or live" be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, may I point out to my honourable friend that in the course of the last three years, the Provincial Government have had occasion to set aside many orders made by the Registrar. Therefore, I submit, Sir, that perhaps my honourable friend does not mean what his expression seems to suggest that it will be farcical to prefer an appeal to the Provincial Government against an order passed by the Registrar—a fact which has led him to suggest that all appeals should be taken to the District Judge. He has given some instances. I shall refer him to those instances that he has given, namely, orders made under clause 25 or 26 or previous ones, 15, 16 or 18 relating to registration or refusal of registration of societies, amending by-laws, finding some person unworthy to be appointed to a managing committee and request him to consider whether appeals against orders of this character can, with

any degree of utility, be taken to the District Judges. As I have submitted on previous occasions, I have the highest regard for the District Judge, but we have provided for appeals to him against orders where knowledge of law will be necessary. But these are matters of an administrative character relating to the internal affairs of the society and I do not know with what amount of propriety or utility we shall be justified in bringing these appeals before the District Judge.

I hope, Sir, my honourable friend will be good enough to see this from the point of view I have submitted and may be good enough to withdraw his amendment. Otherwise, I have to oppose it.

Mr. PRESIDENT: The question before the House is: that in the Fourth Schedule attached to the Bill, in column 3, for the words "Provincial Government" wherever they occur, the words "the District Judge within whose ordinary original jurisdiction the society concerned or its members or person affected by the order lie or live" be substituted.

(The amendment was negatived.)

Rai MANMATHA NATH BOSE Bahadur: Sir, I beg to move that in the Fourth Schedule of the Bill, in column No. 2 against serial No. 10, for the words and figures "Section 126 or section 128" the following be substituted, namely:—

"Section 126, section 127, section 128 or section 130(*3*)."

Sir, I find that in entry No. 10 appeals are provided against two clauses only, namely, clause 126 or clause 128. I submit, Sir, that appeals ought to be provided against the provisions of clause 127 and sub-clause (*3*) of clause 130 as well. Sir, clause 127 lays down a penalty for certain misdemeanours and these misdemeanours are as follows: "(*a*) by sitting or voting as a member of a managing committee, or voting in the affairs of a co-operative society as a representative of another society which is a member of such society, or (*b*) exercising the rights of a member of a co-operative society, when such person was not entitled so to sit or vote or exercise such rights, as the case may be, or (*c*) by employing a loan for a purpose different from that for which it was granted". It further lays down that "the Registrar may, subject to the rules and after affording such person an opportunity to be heard by an order in writing direct him to pay to the assets of the society by way of penalty such sum as the Registrar thinks fit in respect of every such contravention."

Sir, here you will find that as a matter of fact no limit is given and the Registrar is given the option of mentioning any sum which he may like. Furthermore, clause 130(*3*) lays down: "The Registrar shall decide whether any act was done in good faith in pursuance of

the business of a society." This latter clause lays down that certain acts of the societies will not be invalidated by certain defects. There is the question of good faith and the Registrar is given final power to decide whether or not an act was done in good faith. I think the Registrar's power as regards these two clauses ought not to be final and therefore I suggest that appeals should be provided against these two clauses. I suggest, therefore, that these two clauses be also inserted there.

With these remarks, Sir, I leave it in the hands of the House.

Mr. PRESIDENT: Amendment moved: that in the Fourth Schedule of the Bill, in column No. 2 against serial 10, for the words and figures "Section 126 or section 128" the following be substituted, namely:—

"Section 126, section 127, section 128 or section 130(3)."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am afraid there is some amount of misapprehension lingering in the mind of my honourable friend, for he will find that we have provided for appeals and he has also been good enough to mention that, as far as orders made under sections 126 and 128 are concerned. His difficulty is about orders made under section 127 and section 130(3). Now, Sir, he has been good enough to read a portion of section 127 before the House. If he be good enough once again to peruse it he will find that whatever order in the nature of fines the Registrar may be forced to make, that will be under the rules. For, it will appear from this clause 127 that "the Registrar may, subject to the rules and after affording such person an opportunity to be heard," he can make an order, and taking that to be the basis, if he reads item 11 of the Fourth Schedule, he will find that we have provided for an appeal against an order or decision declared by rules under the Act to be wrong. That being the position, there need not be any apprehension so far as clause 127 is concerned.

As regards clause 130(3), it will appear on a perusal of that clause itself that this punishment will be meted out by a court after conviction, and that being the position, Sir, I submit that the ordinary law that governs the procedure before a court will govern such cases as well. Therefore, Sir, there is also an appeal provided in such cases. I submit there is no necessity to have this amendment and I oppose this.

Mr. PRESIDENT: The question before the House is: that in the Fourth Schedule of the Bill, in column No. 2 against serial No. 10, for the words and figures "Section 126 or section 128" the following be substituted, namely:—

"Section 126, section 127, section 128 or section 130(3)."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that the Fourth Schedule stand part of the Bill.

(The motion was agreed to.)

Fifth Schedule.

Mr. PRESIDENT: The question before the House is, that the Fifth Schedule stand part of the Bill.

(The motion was agreed to.)

Preamble.

Mr. PRESIDENT: The Preamble be added to the Bill.

Mr. HUMAYUN KABIR: Sir, I beg to move that in the preamble of the Bill, the words "of moderate means" occuring in line 4, be deleted.

Sir, I think this is an amendment which should be accepted by the Hon'ble Minister and the Coalition Party. Co-operation, if it is a good thing, need not be confined to persons of moderate means alone. Again, Sir, I think it is a difficult question as to how you are going to define "persons of moderate means". Sir, it is generally admitted that no one is content with the particular financial condition in which he finds himself and I think that the Hon'ble Minister himself will not regard himself as being too well provided with the good things of life. He will certainly think that his merits are far more than we on this side of the House, or for the matter of that, members on the other side of the House have been disposed to think. We on this side of the House wanted to find his value at Rs.1,000 a month, my friends to the right wanted to make it Rs.500 a month and I am sure if the matter was in his power alone, he would have fixed it at Rs. 5,000 or Rs.10,000 or some other higher figure. Therefore, Sir, I will take it that he is, in his own opinion, a person of moderate means though the poor peasantry of our country would not agree with him. Most persons would say that they are persons of moderate means, which shows how difficult it is to define a term like this. You cannot draw a line and say that here is a person of moderate means and here is a person of "immoderate" means. I think that nobody will care to be described as a person of immoderate means, even if he really be so. Therefore, these words are superfluous in the Preamble of the Bill. If it be a good thing, why not allow a good thing to permeate throughout the province? Why not allow all to take advantage of the provisions of the Act and form

co-operative societies, if they want to? Why restrict it to persons of moderate means alone? In view of what I have said, I hope this amendment will be accepted by the House.

Mr. PRESIDENT: Amendment moved: that in the Preamble of the Bill, the words "of moderate means", occurring in line 4, be deleted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, at the outset, I can assure my friend that I do not assess the value of my work by the pay that the Legislature has been pleased to fix. I shall consider my labours amply rewarded if I am able to render some little service to my fellow-brethren with the assistance of the honourable members of this Legislature.

So far as the present amendment before the House is concerned, I hope Professor Kabir will see that we want to widen the scope of this measure. The original Act of 1912 had the words "persons of limited means" in its preamble. We want, Sir, that a larger number of people should be able to come within the co-operative fold, and from that point of view the only expression we could think of was that it should be "persons of moderate means"; and, therefore, that expression has been incorporated in the preamble.

Then, there is another point of view. We want to avoid capitalists from coming in and usurping everything to their own advantage. Sir, this expression has been used not for alienating the feelings of those whom we want to have in this movement; on the contrary, this has been done with the object of having people of that description to come and join in this movement. Personally, Sir, I should like to be a member and I am sure Professor Kabir would also like to be a member of a co-operative society. We have a very able member in the person of Khan Bahadur Kabir-ud-din Ahmad who is still continuing to be a member and perhaps a director of one of our Central Banks.

I hope, Sir, this explanation will appeal to my friend and he will not press his amendment; but if he does, I have to oppose it.

Mr. PRESIDENT: The question before the House is: that in the Preamble of the Bill, the words "of moderate means" occurring in line 4, be deleted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that the Preamble and the Short Title be added to the Bill.

(The motion was agreed to.)

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I beg to move that the Bengal Co-operative Societies Bill, 1940, as settled in the Council, be passed.

Rai Sahib JATINDRA MOHAN SEN: Sir, will speeches on the Third Reading be made to-day?

Mr. PRESIDENT: Yes, now.

Rai Sahib JATINDRA MOHAN SEN: Sir, I rise to say a few words on the Bill which, and the manner in which it, has been just passed. I am sorry that I cannot follow the usual convention of the House of congratulating the Hon'ble Minister, the sponsor of the Bill, for the child he has produced. I have preferred to follow the higher convention which has grown up in politics of neither accepting nor rejecting a measure which is of a dubious nature. I am really dubious about the future efficaciousness of this Bill and I, therefore, neither congratulate nor condemn the Hon'ble Minister on his Bill. But I do congratulate him for the pluck and boldness with which he faced the Opposition and for the humour with which he brushed aside all logic and reason of his opponents by a shrug of his shoulders and by saying that they were all living under a cloud of misapprehension. Sir, the Hon'ble Minister's opponents were not mean soldiers—they had held their own in spheres requiring clear vision, clear reasoning, clear administrative abilities, clear understanding of what is wrong and what is right, and clear conception of what is good for the masses. Sir, this Bill is a piece of social legislation, pure and simple. There is no clash of interest of a community against a community or of a class against a class. The Hon'ble Minister ought at least to have shown the fairness by acknowledging that the Opposition were as much animated by a desire to do good to the masses as he himself was. He should have at least once given way, by accepting one amendment of ours and showed a little consideration to us. When amendments to dot an "i" or cut "t" were accepted, the amendments which we moved to right manifest wrongs were turned down with a swing of the hand, though the amendments to the same effect with worse phraseology were accepted, when moved by the Leader of the European Group. The debates and discussion over the clauses of this Bill unmistakably showed their unreal character. The Bill was a Fascist measure and it was passed with Fascist method. There was no real or honest voting, as the members supporting the Bill have admitted openly that they had to sacrifice their own individual views for the collective wisdom of the party. Complaints were made on the floor of this House that whips passed from members to members before the debates were concluded directing as to how the members were to vote. We, Sir, who honestly wanted to improve the Bill were treated

as if we were intruders in this House. I am, Sir, specially sorry for my honourable friend, Rai Bahadur Manmatha Nath Bose, who spent a good part of his life in the administration of one of the biggest and most important central co-operative banks in Bengal. He had moved some very reasonable amendments to improve the Bill as a result of his vast experience but with no better result. He along with us was also labouring under misapprehension, as the Hon'ble Minister said, and all his amendments were also turned down.

I have already said, Sir, that this is a Fascist measure. It was conceived in a Fascist spirit and the lord which has been installed in the Bill is a Fascist lord. His domain is the whole of Bengal and his subjects are the provincial bank, about 125 central banks and about half a lakh of village societies with about one million of people as members. He is their sole lord and dictator. We tried to give him a cabinet for consultation and advice but no—he must not be burdened with any encumbrance. He has been placed above Law and Order. The civil and criminal courts are powerless to touch his person or property and his action are also beyond their jurisdiction. The laws of the land and the law of evidence have been suspended in his favour. He will combine in himself the functions of a Judge, a Magistrate and a Collector, an Accountant-General and Auditor General. Our friends on the opposite tried to console us by saying that he will be merely an administrator of his department. Future events will show whether we or they are labouring under a misapprehension. I am honestly doubtful that there will be any improvement upon the existing state of things. But for the present, I give my friends opposite and the Hon'ble Minister the benefit of the doubt. Let future be our judge.

Mr. RANAJIT PAL CHOUDHURY: Sir, at the first flush, when I happened to go through this Bill along with its Statement of Objects and Reasons, to me this legislation appeared to be quite a salutary measure—one intended to revive the steadily sagging condition of our provincial co-operative societies generally. But after I have carefully considered the various amendments and their real implications, I came gradually to revise my opinion. My eyes first began to open to the real sinister design underlying the measure when, despite sound logic and convincing reason from all sides, the amendment for the appointment of the Registrar through the Public Service Commission was deliberately thrown out. Again, when other amendments carrying similar sound sense and irrefutable logic came to be discussed on the floor of the House, they were unceremoniously rejected, only through sheer strength of number. Sir, my conviction that this legislation meant something more than what it set forth, grew stronger in me; I then began to cogitate as to what could be the real reason and intention of this legislation which had been taken up for

amendment at this late period of the life of our Bengal Ministry. Next, on analysing quite minutely the various new provisions along with their bearings on the administration of the province, I could not but come to the conclusion that this seemingly beneficial legislation was nothing but a clever election dodge—a well-laid plan and programme for fighting the coming election by our Ministers. It will be done thus: the services of the Registrar, who will now be the out and out nominee of the Ministry, will be requisitioned to bring pressure on the different co-operative societies under him and on their numerous members and officials to employ their time, wit and resources on behalf of our Ministers, during their election campaign in the mufassil.

Sir, the reactionary and retrograde character of some clauses of this piece of legislation has by now become quite evident. It runs counter to the liberal and enlightened policy enunciated by the sponsors of the movement and strikes at the very root of genuine co-operation in the province. Some of the suggestions made by that precious Floud Commission set up our Ministry, such as, a thorough overhauling of the present system of co-operative audit, the separation of audit from supervision and encouragement and extension of the principle of limited liability, have all been given the go-bye. Again, by the introduction of the extremely retrograde provision regarding the rule-making power, by investing the Registrar—a nominee of the Ministry—with dictatorial powers, by attempting to exclude many co-operative matters from the intervention of Courts, by introducing penal clauses of stringent character, by not defining precisely what constitutes really co-operation, by extending official control to the fullest extent and divesting co-operative societies of their autonomous character and by introducing numerous other provisions of a stringent character, the legislation has been wholly divested of the co-operative character, except in its title "co-operative". It is extremely unfortunate that a retrograde and reactionary measure of this type is being placed on the statute-book by the Bengal Ministry in utter disregard of the repeated public demands for a thorough enquiry into its working and wholly ignoring the serious allegations that have been levelled from time to time against the manner the co-operative societies are being worked and controlled by the department at the present moment in our province.

Sir, I cannot help observing in this connection that during the last three years and a half of our Ministry's regime, such and similar reactionary legislations have gone on galore. Securely entrenched behind the notorious Communal Award through the strength of number, there is perhaps hardly any important matter which our busy-body Ministry has not kindly touched for legislating. Land-tenure system, money-lending transactions, overdue debts, civil life, secondary

education, markets and fairs, non-agricultural holdings—nothing seems to have escaped the gracious and vigilant attention of our redoubtable Ministers, forgetting for the time being that there is an immutable economical law which defies the dictation of our wiseacre Ministry. Such has been the vaunted "human touch" on some of the legislations passed so far that one of them has been known to have despoiled the Hindus of Bengal of a clear two crores and a half, while two others of a few good crores each. This is human touch indeed! I should think it is high time now that our Ministers should cry halt in their rapid march with such extreme legislations and bethink themselves of their dubious achievements and the ultimate consequences of those laws on the body-politic before it is too late in the day. Again, such has been the unseemly haste and want of fore-thought on their part in enacting these laws, that there is hardly any legislation passed by them which has remained unamended for over six months. But let our Ministers take note that if the Hindus come to their ruin and desolation through these legislations, the Muslims shall not escape it either, in the reactionary process.

Sir, one word to my foreign friends in front of us and I shall be done.

The onward rush of reactionary legislation on the part of our Ministers has been rendered possible by the notable fact that the representatives of British interests sitting in the legislature have, contrary to their traditional sense of justice——

Mr. A. F. STARK: On a point of order, Sir. Is not Mr. Pal Choudhury speaking foreign language?

Mr. RANAJIT PAL CHOUDHURY:——equity, good conscience and fair-play, added strength to the elbow of the Ministry by uniformly showing their sympathy and affording their support to them only in consideration of and for the safeguard of their vested interests, although often in smooth speeches they have expressed their feelings and opinions the other way. Such a conduct on the part of the British members is all the more deserving of condemnation, because there has been no consistency between what they say and what they do. I should say that they have wilfully failed to look beyond the tip of their nose, and I have no doubt that when the day of reckoning comes, as it is sure to come some day or other, my honourable friends will have to feel to their greatest regret and remorse, that in respect of their vested interests the minority community in Bengal no less mattered than the majority community. They may console themselves with the idea that they can play their part like this for sometime and with respect to some people, but they may rest assured that they will never be able to go on like this for all time to come, as they were found out

when the shipping resolution was being discussed the other day in this House. Theirs was a noble mission during this transitional stage in the provincial autonomy, but they seemed to entirely ignore their part in pursuit of their ignoble self-interest. In the Punjab, where the opinion and interests of the Muslim community also predominates, the Ministers have not been known to have undertaken such a plethora of subversive laws, mainly by reason of the fact that the European group is not so viciously predominating there, and their number there is not so commensurate with their vested interests as they are in Bengal.

With these few observations, Sir, I resume my seat.

Mr. J. B. ROSS: Mr. President, Sir, I rise to support the motion now before the House and in doing so I would like to thank my honourabe friend Rai Sahib Jatindra Mohan Sen for the wholly unexpected but quite left-handed compliment he paid to me as Leader of this group. I think before I sit down I may have some such compliments to distribute myself.

In common, I believe, with most parties in this House, and in spite of the very evident electioneering speech of my honourable friend Mr. Ranajit Pal Choudhury, the European Party is of opinion that this measure is long over-due and that the co-operative movement in the province will assume a much healthier character as the result of its becoming law.

There is general agreement that co-operation should be based on self-help and mutual trust with as little official interference as possible. In Bengal, however, the movement has been brought into disrepute by mismanagement on the part of non-official workers, and it is our belief that public confidence can now be restored only by a greater measure of official control.

In this Bill Government seeks to establish certain standards of conduct and management which it is hoped will in time enable extensive exemptions to be made as provided for in clause 8.

The fundamental principles of all straightforward business, namely, honesty, punctuality, integrity of management, financial stability and the compulsory adjustment of audit objections will, on the passing of this Bill, be imported into the working of co-operative societies entirely for their good, and the misdemeanours and abuses which were possible under the Act of 1912 will now be much more difficult in practice, always provided that the extensive powers vested in the Registrar are judiciously exercised. The Bill also provides the safeguard of appeal against certain orders which should give ample protection to the office-bearers of the societies against any harsh use of the powers conferred on the Registrar and his subordinates.

The appointment of the Registrar to administer the Act is a very important matter. This officer must be no weakling. He must be a man of experience and strength of character, tactful but firm, having a wide knowledge of the province and the financial problems of its people, and above all, his integrity must be beyond question.

It is the earnest desire of the European Party that when the appointment falls to be made, Government will ensure the effective working of the Act by choosing the right man regardless of communal or other extraneous considerations. I mention this because the Hon'ble Minister has made it quite clear that Government does not intend to consult the Public Service Commission in respect of this appointment.

There have been two matters which have come to the notice of my party during the passage of the Bill through its various stages to which I feel that I should draw the attention of the House.

The first is the very large number of amendments tabled. Without taking into consideration the various short-notice amendments submitted during the debate, there were in all 771 amendments of which no fewer than 404 were put forward by members of the Coalition Party; and of the latter, barely 10 per cent. were ultimately moved.

Now, Sir, I have no wish to, nor do I intend to criticise the right of any member of this House to table amendments, but the figures which I have given disclose a state of affairs which does not accord with the accepted parliamentary practice in other countries and which might be correctly described as democracy over-running itself.

In the nett result, there has been a considerable amount of unnecessary work thrown on the Council Department, a great deal of the time of members of this House in considering these amendments has been wasted, and much expenditure of money incurred which could have been avoided.

I submit, Sir, that the ministerial party could have overcome the desirability of submission of the greater part of their amendments by prior discussions with the Hon'ble Minister, more particularly as the Bill has come to this House as the result of the vote of the same party in another place.

No one will dispute the fact that the necessity must arise from time to time for the submission of amendments to repair omissions in or for the improvement of Bills which come to this House from another place; but the European Party is strongly of opinion that the wholesale submission of amendments by members of the ministerial party in this Council is to be deprecated. I suggest, therefore, that this House should take the initiative in bringing into practice a convention

that amendments should be tabled by members of the ministerial party only with the consent and approval of the party as a whole. Such a custom would I am sure add to the dignity of the proceedings in this House.

The other matter to which I would refer is the slipshod manner in which this Bill has been drafted.

During the clause by clause discussion of the Bill, it has been found necessary to postpone consideration of several clauses because there was considerable difference of opinion in the House as to the real meaning of these clauses, the wording in each case being ambiguous and open to two interpretations. It was a matter of some surprise to this party that the Hon'ble Minister showed much reluctance to see the force of the submissions made in respect of clauses 56 and 126; and in one case it appeared that he himself was in doubt as to what the intentions of Government were. I found it necessary during the second reading of the Bill to bring to the notice of the House a case of faulty drafting which could have been easily corrected before the clauses were passed, but here again the Hon'ble Minister showed extraordinary unwillingness to put matters right.

I refer to the sequence of clauses 56-59.

Clause 56 (*2*) provides for a reserve fund. Clause 57 prescribes the conditions governing the payment of dividends.

Sub-section (*3*) of this clause provides that after setting aside the proportion of profits required for the reserve fund as laid down in clause 56 the balance of the profits may be distributed as dividends or bonus.

That would appear to close the chapter in relation to the distribution of the profits.

When, however, we come to clause 58, we find that there is a definite obligation to set aside 5 per cent. of the profits for co-operative education.

I submit, Sir, that this clause should correctly take its place between clauses 56 and 57 and that sub-section (*3*) of clause 57 should have been so amended as to make the distribution of profits subject not only to the provisions of clause 56(*2*) but also of clause 58(*a*). Had the Hon'ble Minister accepted these suggestions, the Bill would have been much improved. He did not agree, however, for reasons which are obscure to my party, and the error which must be adjusted can now be corrected only by the introduction of an amending Bill.

Now, Sir, I have drawn attention to these matters with the object of stressing the fact that it is the prime duty of this House to ensure that before a Bill is passed by the House and becomes law, the various clauses are free from ambiguity and are definitely not capable of two interpretations. I maintain that it is our duty to see that Bills do

not leave this House so phrased as to involve the people of this province in needless expenditure on legal advice to ascertain their true meaning. It is quite beside the point for Government to say that their intentions are such and such, if these intentions are not clearly expressed in the Bill; for unless so expressed, the courts of law cannot give effect to these intentions. That this Bill does not answer the conditions which I have postulated, is evident by the frequency with which the expression "I am afraid my honourable friend has been labouring under a misapprehension" has been used by the Hon'ble Minister throughout the debate. It is most regrettable that Government in these circumstances felt it necessary to force this Bill through the House uncorrected so far as these deficiencies are concerned, and I trust that the House will support me in demanding that greater attention should be paid by Government to the drafting of Bills and to the opinion of the House when faults are pointed out.

With these words, I support the motion for the Third Reading of the Bill.

Mr. KHORSHED ALAM CHOWDHURY: Sir, an offer of an explanation as to why I was silent during the first two readings of this Bill will be a suitable introduction with which I would like to start addressing the House at this stage. Having been connected with the co-operative movement in office as well as outside for over two decades, I naturally felt interested in the discussion on the subject. But I did not participate in the discussion on the floor of this House in view of the fact that with regard to the details nobody is a better authority than my esteemed friends Khan Bahadur Ataur Rahman and Khan Bahadur Saiyed Muazzamuddin Hosain, who have actually worked the movements and have had opportunities to study its *pros* and *cons* since the very beginning. In fact I look upon Khan Bahadur Ataur Rahman Sahib as my "*Guru*" in this line. In spite of all differences between the different groups in this House, I believe everybody will admit that these two honourable members have given us sufficient light on the subject. In connection with the consideration of the details we sat for hours together on different occasions during the last three weeks or more when we had occasions to differ with them but we thought it wise to submit to the better wisdom of the two experienced heads.

Much has been said for and against the co-operative department. I cannot totally disagree with my friends who have pointed out defects. But if I am permitted to analyse the cause of such defects, I must say that it is the want of co-operation from my friends inside the House and their supporters outside for the co-operative movement.

The Bill has almost finished its journey and the time has come to give a finishing stroke to it either by passing it into law or by rejecting it. One hopeful feature that has been noticed all along is that this Bill

has not met with such vehement opposition from my friends of the opposition as many other Bills have met. In fact, no material constructive suggestion came from them to improve the Bill. If any practical difficulty creeps in in working out the scheme, certainly there is enough room for amendment.

My friends of the Opposition have noticed a spirit of autocracy in this Bill so far as the powers vested in the Registrar are concerned. If the Bill has given wide powers to the Registrar, it has also provided for safeguards and the provision of appeal against his decisions will always keep him under proper check. Hence, supporters of this Bill did not consider it necessary to accept the amendments proposing separate check on the action of the Registrar. In fact, my friends of the Opposition have gone to the length of characterising it as Hitlerism. Nobody can lend support to autocracy or Hitlerism which really means one man's rule. But it has got to be admitted that any scheme requiring technical knowledge in its transitional period stands in need of an experienced hand. The Government has got to be careful in the selection of the Registrar so that the powers vested in him by this Bill may not be abused. This safeguard can be provided for by allowing an extension of service to our present Registrar who has got vast experience in the co-operative movement in this province and who has never been found to err on the side of excesses. Criticism we have had enough, but nobody has anything to say against the present Registrar. He is reputed to have been holding and steering the course of the helms of the department successfully for a long time. The policy of the present Government is not to grant extension of service to any public servant except in special circumstances. The present case richly deserves to be placed under such special circumstances. After the engine is once put into a working order, the functions and powers proposed to be vested in the Registrar may be distributed when there would be no dearth of experience.

Sir, mistakes are deplorable but mistakes help us in learning. If there have been mistakes under the old system, it is these mistakes that have led the sponsors of the Bill to devise ways and means to avoid them in future. Those who had the opportunity of studying the working of the old system will unequivocally admit that the provisions made under the present Bill are all intended to remove the defects.

This House claims the credit of making certain amendments in the Bill as it was presented here. And of such amendments the most important one is sub-clause (*4*) of clause 98 whereby it has given relief to the debtors in the matter of distraint. In the absence of this amendment, the debtor would run the risk of losing the entire produce of his land and thus face starvation. We are grateful to Khan Bahadur Saiyed Muazzamuddin Hosain at whose instance this House considered the matter thoroughly and did the needful.

In this Bill it has been provided that Government will be able to extend greater financial assistance to the co-operative societies directly or indirectly. One of the essential objects of launching co-operative movement in this province was to make money available to the poor agriculturists at a low rate of interest. The financing banks are at present helpless in this matter as they are to borrow at a high rate of interest to add to their capital. The untiring energy with which the Hon'ble Minister in charge of the department has travelled for the last two years and a half and has almost reached the goal will be crowned with success when the financing co-operative banks will have sufficient finance at their disposal to lend to their constituents at a lower rate of interest than at present. Our task as critics is much easier than that of the authors of the Bill whose duty is of a constructive nature. Let us wait for the time when my friends of the Opposition will change their views on seeing the result of this amendment and join hands with me in congratulating the Hon'ble Minister. The needy agriculturists of Bengal will certainly be grateful to the Hon'ble Minister and the Registrar for saving them from chill penury to which they are often reduced by the inordinate greed of the money-lenders.

With these fews words, Sir, I support the motion for passing this Bill.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I cannot congratulate the Hon'ble Minister in charge of this Bill on the form in which it is likely to pass out of the Legislature. While I appreciate the solicitude of the Government for better and more stringent control for which the Bill has made ample provision, I cannot but regret that all the major amendments which were moved from the Opposition Benches and which were intended to make the Government supervision more salutary and more effective have been turned down at the instance of the Hon'ble Minister-in-charge.

Sir, I have had occasion to point out before and I emphasise it now that the Registrar has been given by this Bill the crucial and pivotal position in the co-operative structure of this province. Sir, I have not only no grievance in respect of the powers which have been assigned to the Registrar, but I believe that in view of the circumstances prevailing in this province and in view of our past experience regarding co-operative institutions, it has been right and proper that the Registrar should be given wide and far-reaching powers of control. But, Sir, it was imperative that every means should be taken and every provision should be made for the appointment of a fit and proper person to the office of the Registrar. The appointment of an officer on whom will depend the future of the co-operative movement in Bengal should not have been

left to the capricious patronage of any fickle Ministry. Unfortunately, Sir, all the efforts of the Opposition for ensuring the selection of a fit and proper person as Registrar have proved abortive.

It is also, Sir, my conviction that the Registrar would have exercised his wide powers of control more efficiently and more justly if he had the opportunity of being advised by a small committee which was suggested by the Opposition. But the suggestion has been rejected at the instance of the Hon'ble Minister who, however, has failed to offer any valid and effective argument for his insistence on such rejection.

It is equally regrettable, Sir, that the suggestion made by the Opposition for separating the work of audit from the work of general supervision and control, has met with the same fate as similar other suggestions. The Hon'ble Minister in insisting on the rejection of this amendment pointed out the difficulty of separating the two branches of work. But, Sir, such difficulty always arises when an old irrational system has to be reformed and re-arranged. The difficulty, however, is there to be overcome and not to constitute an effective obstacle in the path of progress. I admit, Sir, that the separation of the two branches would have required some addition to the existing staff, and would have involved some greater outlay of expenditure. But the question is if such addition to expenditure would not have made the co-operative organisation more efficient and more fruitful in this province. We in the Opposition, Sir, have no doubt as to the answer to this question. It is only a pity that the Hon'ble Minister has found himself unable to agree with us on this point.

Sir, the Co-operative Bill was a measure in which the Opposition would have been glad to go into the same lobby with the Government. It is more than unfortunate that on such a measure intended for the reconstruction of our rural life, I felt constrained to remain in Opposition.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to support the motion for the passage of the Bill and in doing so I have to make some observations. The Bill has been criticised as a Fascist Bill and its provisions characterised as being radically against all recognised principles of co-operation. One of our friends has gone further than this and branded it as a communal measure like some other Acts which, according to him, were also communal in character, e.g., the Bengal Tenancy Act, the Bengal Money-Lenders Bill and so on. Sir, I fail to understand how an innocent Bill like this could be branded as communal at all. If it is at all communal, it is pro-Hindu, as it wants to save the capitalists—the depositors most of whom are Hindus——

Mr. LALIT CHANDRA DAS: We do not want to say pro-Hindu or pro-Moslem: we want to say pro-Bengali.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With that I agree. But I beg to state that this Bill is not at all communal.

Sir, the other Bills also, namely, the Tenancy Bill and the Money-Lenders' Bill, cannot be said to be at all communal. All that they sought to do was to readjust the maladjustment. Sir, it will be remembered that it is some seven years ago that Sir John Anderson while speaking at a St. Andrews' Day Dinner said that the economic condition of the Bengalee agriculturists had come to this position only because of mal-adjustment somewhere, and then he made certain suggestions in pursuance of which an economic board was established in this country for finding out the reason of the deplorable economic condition of Bengalee *raiyats*. As a result of that it was found that the maladjustments were between the tenants and the landlords, and between the money-lenders and the debtors. The present Government sought to set right maladjustment and an attempt was made to readjust the whole thing. But still, Sir, it is branded as communal only because it is going to help the *raiyats*, the majority of whom happen to be Mussalmans.

Now, Sir, I come to the point regarding this Bill itself. It has been said that it is a Fascist and an anti-co-operation Bill. I admit it is so; but the object behind is unexceptionable. Co-operative principles and theories were given a fair trial extending over 30 years but they have failed to produce the desired results in the soil of Bengal, because of mass illiteracy and appalling poverty. Until and unless illiteracy and poverty are removed, there is no hope of co-operative principles taking root in the soil of Bengal. But, Sir, we cannot indefinitely wait for removal of illiteracy and poverty. Co-operation or no co-operation, we must arrange for credit facilities for our agriculturists and artisans and for doing so we must arrange for supervision and control in such a way that the capitalists and depositors may have confidence in the safety of the money they put in the societies. We cannot allow co-operative department to play with other people's money and should not be satisfied with merely following co-operative principles without taking stock of the result. We must approach the question from business point of view and for this reason in the interest not only of the capitalists and depositors but in the interest also of the poor agriculturists and artisans we have supported the officialisation of the co-operative movement, so that under a strict official supervision and control the honorary workers may not find any opportunity of abusing their powers with impunity for any length of time as hitherto they have done. But although we are supporting this rather retrogade policy of officialising a non-official movement in the interest of the mass, we, who have had long experience of co-operative works in this province, feel that the Bill was capable of much improvement and much of the sting of officialisation and stringency of its provisions could be removed if the Hon'ble Minister

in charge had only cared to accept some of the very important and useful amendments suggested by our party members. It is true that a few amendments have been accepted but it has been done at the cost of exhausting our nerves to a very great extent at party meetings for days together. The one or two amendments that we have been successful in persuading the Minister to accept have certainly made the Bill better to a certain extent. For example, the one which has been referred to already by our friend Mr. Khorsed Alam Chowdhury by which the sting has been taken away by providing that more than half of the crop could not be taken by distraint. Many other amendments were suggested but unfortunately we could not carry them through.

Sir, in this House we are in an advantageous position as we have got two ex-officials of the co-operative department as also two honorary Chairmen of co-operative banks, who have experience of this particular department and have been connected with it for more than 20 years and some of them can claim longer experience than even the Registrar of the department—not to speak of the Minister and Secretaries. These honourable members who are in a position to look at things from a correct angle of vision had made some very valuable suggestions for improving the Bill, but our responsibile Minister was adamant and would not agree to effect any modification which would not be approved by the departmental head. Sir, being a member of a party supporting Government, we were in a fix and we felt that it was not the Minister who was responsible to us but we were responsible to the Minister to support him however unreasonable the provisions of the Bill might be. Sir, at times we who worked under the much-maligned bureaucratic form of Government felt we were now working under a much worse type of bureaucracy, more unreasonable and more obstinate. In fact, sometimes we thought that our Hon'ble Minister had out-Hitlered Hitler, the autocratic dictator of Germany. In fact, Sir, I made it plain to the Minister himself and I do not make any secret of it as I have his permission to give vent to my ideas here. God save us from our friend—from such a Minister. But, Sir, days are not far off when there may be better cohesion amongst the party members and we will be able to compel the Minister instead of as we are now being compelled by the Minister.

Sir, in their zeal to give more power to the Registrar and his lieutenants for checking mismanagement and in their eagerness to make the money taken as loan from the co-operative banks safe, the executive who framed the Bill have gone to the other extreme. We, the ex-officers and non-official honorary workers of the co-operative movement also think that the executive should have power to stop mismanagement and the co-operative money should be made safe. But we would avoid extremes which are likely to jeopardise the whole movement and with that object in view some very salutary amendments were suggested by

us. One of our esteemed friends had suggested that no enquiry should be held against honorary workers under sub-clauses (*a*) and (*b*) of clause 126 and his amendment was that these two sub-clauses should be expunged, as no honorary worker would care to join the movement with so much risk. But for reasons best known, this was not accepted and we apprehend that it will give a death-blow to the co-operative movement.

An amendment was suggested for making it absolutely clear that all prior mortgages would have preference over co-operative money and although the Hon'ble Minister admitted it was really meant to be so, he would not make the point clear in the Bill. The result is that clause 47 remains beautifully vague. To my mind, a prior mortgagee's interest will suffer if the mortgagor conceals the fact of mortgage and does not redeem it before taking co-operative money for purchasing a land or building a structure. The provision regarding the position of prior non-member mortgagees or transferees before the transfer being made illegal according to the present Act in a colonisation society, is also left beautifully vague. The question of fixing the maximum rate of interest is also left undisposed of on no reasonable ground. The advice given by the hoary-headed and weather-beaten experts for keeping reserve fund money entirely separate and invested in gilt-edged security has not accepted only because the suggestions came from people who are no longer officials.

I have, Sir, taken the valuable time of the House in mentioning some of the chief defects in the Bill in the hope that the Minister will take note of them and should see that when the next amending Bill is brought forward, these things are taken into consideration. It is my honest opinion, Sir, that the Bill, as framed, will not help as many as 66 per cent. of the co-operative societies which are already in a moribund condition and its provisions will be resented by the 33 per cent. which are in good working order because they are too stringent. Yet, I support the Bill for allowing the department to make a final desperate attempt to secure money for the agriculturists and thereby bring back confidence to the department again. The only redeeming feature of the Bill is perhaps the provisions regarding the irrigation societies.

With these remarks, Sir, I support the motion for the final passage of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, after the clear exposition given by Khan Bahadur Saiyed Muazzamuddin Hosain of the provisions of the Bill, strengthened by his experience of the department, it is needless for me to go into the details of the Bill at this stage. I believe that in dealing with a Co-operative Bill like this there is enough room for differences of opinion. In a debate on a disputed matter like

this, nothing can be conclusively proved or disproved on any side. This is, therefore, a Bill where it is likely that experts will differ and experts are inclined to differ with plenty of warmth. Even laymen have their pet theories which they would not be inclined to give up very easily. Now, Sir, the problem that we are to solve here is economic, not a moral problem. In economic and social problems there are two, three or more sides and it is possible to have honest differences. In moral questions even, it is not often possible to have two sides. (Mr. HUMAYUN KABIR: Certainly, it is.) Well, I shall be very much disinclined to make a confession in this House that I can see any virtue in justifying two sides to a moral question. However, be that as it may, confining ourselves to economic questions, I think there is room for much difference of opinion, and if there has been difference of opinion between the members of the Opposition and our side, it is largely due to this. We have the practical experience of Khan Bahadur Saiyed Muazzamuddin Hosain. We have also some theorists in the House. It is, I submit, quite impossible to have no honest differences in a Bill like this, but it is impossible to say that the Bill will not be good for the people. Sir, I find that even Khan Bahadur Muazzamuddin Hosain, who has himself been a stern critic of the Bill, had, after all, to say that was in favour of the Bill which he characterised as a "desperate attempt". After all, he has supported the Bill. The credit structure has been shattered in the rural areas: it must be rebuilt and so there must be something like a Fascist organisation. If it is properly run and properly controlled, Fascism would not be as bad in a crisis like this.

We find that even in England the Ministry has taken Fascist powers in that they have abolished all ideas of democracy. It is in order to harness all their resources, their wealth, their energy, that they have taken recourse to Fascist powers; it is in order to man all their resources so that they may fight against the common enemy that they have taken Fascist powers. They also did so during the last war. In a similar way, Sir, the co-operative movement in our province requires Fascist powers for its rehabilitation. The credit structure must be built anew and confidence created. There is, however, a natural anxiety on the part of the framers of the Bill and its supporters to achieve that end. This anxiety can be seen from their desire to guarantee and safeguard the position of the depositors. The provisions have been tightened all through to secure this purpose. There has been, in fact, a desire to encourage the depositors to invest their money in this movement, and in order to ensure the soundness of their investments it is necessary that there must be some measures, some stringent measures, to compel the co-operative societies concerned to see that their business is conducted along the right lines. This is necessary for the benefit of the borrower members themselves. If, after their rehabilitation, the societies are

again allowed to borrow according to their own sweet will and if, again, they are allowed to default in the matter of repayment of their loans, the movement will collapse never to rise again.

Sir, as I have already submitted, it is impossible to generalise or dogmatise in a matter like this. We have found some amount of difficulty in satisfying our nationalist friends like Mr. Das: it is our misfortune that we could not satisfy them. We have tried our best to meet their wishes; but if we have not been able to agree with them, it was never due to any desire on our part to oppose them right and left. I do not want to express myself in strong terms but, I believe, Mr. Das has been a redoubtable fighter against anything and everything which the Government have brought forward; that is our impression about him. I must, however, admit that this opposition has its constructive values; opposition is very necessary in order to check and correct wrong or irregular tendencies of this side of the House. It makes everybody alert. Sir, we had given our best consideration to the Congress amendments before we came to the House, but there was some unusual resentment on the part of Mr. Das when we disclosed this. I simply told him that we had been carefully considering Congress amendments also; but this upset him and he said we had no right to do so. I believe he acted like a lioness jealously guarding her new-born cubs. He made it clear that his amendments were sacrosanct and must not even be touched by us.

That attitude of his was due, no doubt, to a considerable amount of honest pride in him; but we must not take any serious notice of that. Oddly enough, one of the charges of the Opposition has been that their amendments have not been considered by our party but have been simply brushed aside. I can assure them that it was not so. If we have not been able to accept their amendments it is not due to the fact that we had no desire to accept amendments sponsored by the Opposition. We carefully considered and discussed the amendments and thereafter submitted them, one by one, to the collective wisdom of our party. After all, in a party system we have to be guided by the collective wisdom of the party. It would be impossible for democracy to work if individuals would try to raise their heads against the decision of the majority. I think it is the duty of the individual members of a party to support the majority view. There were many practical difficulties which we felt in dealing with the Congress amendments. Some of the amendments—and they were very important amendments—had been copied *verbatim* from those tabled in another place.

Mr. SHRISH CHANDRA CHAKRAVERTI: Is there any prohibition to do so?

Khan Bahadur NAZIRUDDIN AHMAD: No, there was no prohibition; it was quite consistent. But, as has been observed by the *Statesman* in a recent editorial, the Upper House should not be an exact replica or a copy of the Lower House; for, then there would be no utility in such an Upper House. I do not see why my friends of the Congress party should literally stick to such amendments in that way; some of them contain references to clauses which have since been renumbered, but they have been sent in by our Congress friends here even without necessary corrections, so that they are glaring anacronisms to-day. In a few cases amendments which were accepted in the Assembly, have again been tabled here. Our party had considerable difficulty in detecting these mistakes and in following the amendments.

Then, Sir, a suggestion has been made from a responsible quarter that this House should not submit a large number of amendments which they had no intention of moving. With due respect, we cannot accept any such proposition. One reason is that the Coalition Party in the Upper House is not a mere copy of the party in the Lower House. You will be pleased to observe, Sir, that this party here has considered the Bill in an absolutely independent way. We have approached the Bill with a fresh outlook. We put in amendments with an independent and open mind, and we did it with a view to altering the structure as well as improving the text of the Bill. There are two experienced members in this House who have given the benefit of their experience to improve the Bill. I have in my own humble way attempted to assist the House by suggesting humble drafting amendments. They were accepted by the Government draftsmen, and I think this is an ample justification for having tabled them. I claim, that they have improved the Bill. As I submitted on a previous occasion, there are great fighters on the Congress benches who never care for commas, colons, semi-colons and small things of that type; they have always attempted to kill big games, such as the deletion of wholesale clauses, sub-clauses and things like that. After all, the position is that we in the Upper House—and I am not speaking on behalf of my party alone—have a duty towards the Legislature to do our best to make the Bill as good as possible; for, that is the business we have come here for. I cannot guarantee that this Bill is the best possible Bill. Like any other human endeavour, it has its defects; but with experience these defects will come to light and amendments will come in to cure such defects. The work we have done will convince any intelligent critic that we have done the best of a bad job.

Then, Sir, I think in making amendments Government have often lost sight of the drafting point of view. There is considerable force in the complaint made from the different sides of the House that in recent

Bills, draftsmanship has been to a great extent lost sight of. Mr. Ross, was strong in his complaint. In fact, the large number of amendments tabled is due to faulty drafting. The fact that they were not moved is another matter—collective wisdom of the party. But in mitigation of wholesale charges of bad draftsmanship against the Minister, I must say that they find themselves in a province where the public, no less than the members of the Legislature, have taken to politics in right earnest. As a result, the output of legislation has increased enormously and the pressure on the Ministers and their technical advisers has palpably become over-whelming. The existing machinery has outlived its utility and must be thoroughly over-hauled. There are, again, some nationalist members who are anxious to dub every good measure as a communal measure. About that I have already submitted my views and I shall not repeat them. But this charge of wholesale communalism is not one which could be and should be expected from responsible members of the Upper House. We in a plaintive voice submit before them that we are not guided by communal motives at all in this matter. It has been plainly declared here that the Bengal Tenancy (Amendment) Bill, and the Money-Lenders' Bill were communal measures. Only the other day when I referred to this attitude of the Nationalists towards these two Bills, and said they had been dubbed communal measures, I was immediately contradicted. But what do we hear to-day? We have just heard from a very responsible member of the Congress party that these very Bills were communal in character, and that the present Bill is meant for propaganda. Well, Sir, if propaganda means anything, I think Government can learn a great lesson at the feet of the Congress in the matter of propaganda. I think it is impossible to surpass the Congress in the field of propaganda. But, if the Bill is as bad as is alleged, then certainly, as an item of propaganda it would injure the Government and benefit the Congress. It would certainly do good propaganda for the Government if it is good; but according to the honourable critic, it is a bad Bill.

Finally, Sir, I submit that this Bill, as it has emerged out of its Second Reading, should be accepted, although we are not without misgivings about it. No serious man can be without misgivings on an important subject like this. But let us give the Bill a fair trial; let us inspire confidence amongst our depositors; let us try to save honest workers and at the same time tackle those who are not honest; let us raise a sound credit structure around our cultivators; let us change them, by even drastic remedies, into honest, solvent, punctual debtors; let us raise a new structure on the ruins of the past. Taking the Bill as a whole, and taking a long view, I have no hesitation in supporting the Bill. There may be defects, even glaring defects; but, after all, Sir, it is a human Bill; it is not a divine Bill; it must have its defects.

Let us give it a fair trial; and as we gain in experience, we shall try to remedy those defects in good time. Meanwhile let us march onwards with the main work.

Now, Sir, I shall refer to clause 126 of the Bill. To my humble suggestion that the clause would be retrospective, Mr. Ross expressed some surprise. Mr. Lalit Chandra Das had started the game. I was criticised from all sides of the House, but I submit that I was right as my interpretation has been accepted by the House which has refused to give retrospective effect by a specific amendment. I must explain the matter more specifically to justify my interpretation. The Registrar has been given certain powers of making inquiries and to impose surcharge in suitable cases. I must admit that the condition precedent for the exercise of that power is that he must make an audit, or inspection or an inquiry under three appropriate sections of the new Act. There is no doubt about that. There is no doubt that in order to impose a surcharge on defaulters, he must have cognizance of the item through the provisions of the new Act. But it is argued that, as his jurisdiction is dependent upon some sections of the new Act, he cannot impose the surcharge on account of acts done under the old Act. But the argument is deceptive and fallacious as I shall presently show. Let us assume that the Bill passes into law on the 1st day of January, 1941; on the 2nd day of January, 1941, the Registrar orders an audit of an account which related to a transaction of 1938 or 1939, that is, under the old Act. Suppose the Registrar, while so acting under the new Act, discovers a fraud or misappropriation or an illegal payment in 1938 or 1939. The only limitation is that the acts must be within 4 years of the audit. There is no other bar to his power. This is giving retrospective effect, pure and simple. All that is required of the Registrar is that he must act for audit, inspection or inquiry under certain sections of *this* Act, but he is not at all confined to acts taking place only after the passing of the Act. That, I submit, gave him the right to open old transactions. When the point was raised, I gave careful consideration to the matter and thought that retrospective effect was inevitable. But the position has been cured by an amendment which makes the text absolutely free from the so-called danger of retrospectivity, and as that has been done, I am happy to submit that, though I do not agree that retrospective operation should have been taken away, yet I am happy to admit that Mr. Ross has, by a straightforward amendment, effectively imposed the will of the House on that Bill.

Now, Sir, my friends of the Congress Party have always cast a fling against the Coalition Party and the Europeans and others,—against everybody except themselves. If any party, however great that party might be, thinks that every other party consists of inferior brains,

and lesser capacity, that, I submit, is a most desperate assumption to make. I think the members of the Congress Party suffer from a superiority complex but I do not blame them for that, because it is only a human weakness and it makes them happy.

Sir, there is a temptation to go on talking. But I have already taken much time of the House and I must conclude by saying that I have no hesitation in supporting this Bill with a clear conscience, and that I hope for the best results out of it.

Mr. NUR AHMED: Sir, I wish to make a few remarks on this Bill. Sir, with all respect to the speaker who preceded me I must say it was not desirable to introduce some factors at this stage. Sir, questions have been raised in this House in connection with this Bill which should not have been raised and we on this side of the House have been served with sermon after sermon. May I be allowed to call it a Sabbath sermon? We have had sermon from our right; we have had sermon from the group sitting opposite.

Sir, it has been said that the Bill is a reactionary Bill and a communal Bill and that taking advantage of the Muslim majority, Government have rushed Bill after Bill which are reactionary in their character and which are communal in their outlook. It is most surprising that a Bill of this nature, a Bill which goes to improve the economic condition of a province, should be styled so. May I say, Sir, that I went through every clause of the Bill and I did not find such word as "Muslim" anywhere in this Bill. I did not find any clause which gives preference to any Muslim community. Sir, it is an admitted fact that about 80 per cent. of societies are run by Hindus and non-Muslims. Only a few societies are managed by Muslims, in which Muslims are office-bearers. How can it be said that by the advantages that will accrue to the societies, the Muslims alone will be benefited? How can it be said that a Bill which is sponsored by a non-Muslim Minister is a communal Bill? Sir, this Bill has been styled as reactionary. It should have been styled as revolutionary. I find that it is a Bill which is all-sweeping and all-comprehensive. It contains provisions which are novel and unique and which are not to be found in the Acts of any other province in India. For the first time in this Bill, special provisions have been made for the betterment, for the improvement, for the consolidation of that movement which is vitally connected with the economic welfare of the masses. Sir, the honourable speaker who made that sweeping remark, I am sorry to say, has not cited a single provision in this Bill to prove his assertion. Sweeping remarks hurled at random will not do. He must prove his allegation; but Sir, he utterly failed to show from the provisions of the Bill that it is really reactionary.

Sir, as regards the sermon coming from our European friends that the Coalition Party should not have tabled so many amendments, I think I should say a few words in reply. Sir, we are following a convention. Up to this time the convention is that we table amendments and those amendments are considered at Party meetings and after due consideration if we think that we should not move them, we do not move. That is the convention that is being followed. Of course, I must admit the argument that it takes time of the House and entails unnecessary expenses. It is true. But as the convention exists now, we are helpless in the circumstances. It was not our intention to waste the time of the House or to incur unnecessary expenditure in this way. We gave notice of these amendments with the best of intentions.

Sir, in connection with this Bill it has also been said that this Ministry has sponsored measure after measure which are reactionary; for example the Bengal Tenancy Act, the Money-lenders' Act and other Acts. All that I can say is that I do not find any word to condemn this statement which cannot be true. These Acts which have conferred or are conferring immeasurable benefits to the masses of Bengal could not have been styled as reactionary. What is meant by reactionary? I must admit my deficiency of the knowledge of English. It is a foreign tongue to me. But as far as I understand that word, I can say that this word has been misused and misapplied indeed, the word which should have been used is "revolutionary".

This Ministry is sometimes called a capitalist Ministry, but from the Acts which have been passed by this Ministry I must say that it is opposed to Capitalism. It has been said that the Bill is a Fascist measure conceived on Fascist lines and piloted by a Fascist Minister. Sir, with all respect to my friend Rai Sahib Jatindra Mohan Sen, I wonder how he can say that this Bill is a Fascist measure. I do not find anything of Fascist nature in its provisions. The only thing that he can point out is that considerable power has been given to the Registrar. I would, with all respect, request my friend to remember that the Registrar will be a servant working under the Minister, who is responsible to the Legislature. Moreover, the powers given to the Registrar are not absolute and they must be exercised with caution. In some cases appeal will lie to the Provincial Government. These powers with one or two exceptions are common features in all the Acts of all the provinces. These are nothing new. Even in the Act of 1912, such powers were there. At the very inception, I mean, with the passing of the Co-operative Credit Societies Act of 1904, similar powers were given to the Registrar. So, it is not a new thing for which the Government can be branded as Fascist. Of course, I am not oblivious of the fact that the world to-day is obsessed with Fascism and our Government is

supposed to have contracted that. The other day there was a demonstration against Fascism but the leaders of the anti-Fascist demonstration were arrested by the Government. With all respect to my friend, I am of opinion that he has got that from the air and has used that catch phrase "Fascism". There is nothing Fascist in this Bill and the Registrar and his subordinates will exercise these powers with their eyes open. If they act arbitrarily or whimsically, they will be brought before a Tribunal.

My attention has been drawn to the last amendment of Professor Humayun Kabir that there is a novel idea underlying the statement embodied in the Preamble. In the Preamble, the words "persons of moderate means" have been used. In all the Acts of other provinces such as in the Bombay Act, Madras Act and the Bihar and Orissa Act, there are no such words. The word used there is "agriculturist". The expression used is promotion of thrift, self-help and mutual aid of agriculturists and other persons with common needs and interests. But I do not find the word "agriculturist" in this Bill. I do not go so far as to say that it is the intention of the Hon'ble Minister to exclude the agriculturists. There is ample proof that suitable provision has been made for safeguarding their interests, but I do not understand why this modification has been made. Even in the original Bill, as it was published in the *Calcutta Gazette*, on the 7th July, 1938, no such words as "moderate means" were to be found. We do not know how this came into the Preamble.

The second novel thing that I find is section 127. By that section a new offence has been created by characterising as misdemeanour the utilisation of a loan contrary to the purpose set forth in the loan application or sitting or voting having no right to sit or vote. This is a new thing which is not found in any of the Bills. Of course, it is true that for paying little attention to utilising the loan, the co-operative movement has failed, and it should be made obligatory on the part of the society and its members to see that the loan is not misused. I think for this purpose that offence has been created in this Bill.

There is another section, that is, clause 8, which is also a new thing. Clause 8 does not give any power to exclude or include any society or class of society. There are other very salutary provisions in this Bill. One of them is with regard to the assistance to be given by Government which, I think, is altogether a new clause. Power has also been taken in this Bill to issue debenture loans. For such provisions, Sir, the Bill deserves commendation and not condemnation.

Then, Sir, it is a fact that the co-operative movement in Bengal has not been prospering. The bad debts are increasing day by day, and many of the societies are on the verge of collapse and of going into liquidation. These are facts which are patent and it is in order to meet

these defects that this Bill containing such salutary provisions has been ushered in. I also find that many of the recommendations made by the Central Banking Enquiry Committee have been embodied in the provisions of this Bill. So, what I am trying to make out is that it is not a black Bill and that this Bill should not be condemned wholesale. These provisions are more salutary in effect than what could have been thought of by any person having the good of this movement at heart. Sir, I may be permitted to cite one particular reference, and this is with regard to clause 126. References have been made that sub-clauses (*a*), (*b*) and (*c*) are very comprehensive. I know that the power given by this clause may be misused——

Mr. DEPUTY PRESIDENT: Order, order. Mr. Nur Ahmed, will you be able to finish in a minute or two?

Mr. NUR AHMED: I shall at least require ten minutes more, Sir.

Mr. DEPUTY PRESIDENT: In that case, I must adjourn the House now.

The House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 19th September, 1940.

Members absent.

The following members were absent from the meeting held on the 18th September, 1940:—

(1) Mr. Kader Baksh.
(2) Mr. Narendra Chandra Datta.
(3) Mrs. K. D'Rozario.
(4) Mr. Kamini Kumar Dutta.
(5) Khan Bahadur Alhadj Khwaja Muhammad Esmail.
(6) Mr. Kanai Lal Goswami.
(7) Khan Bahadur Syed Muhammad Ghaziul Huq.
(8) Alhadj Khan Bahadur Shaikh Muhammad Jan.
(9) Khan Bahadur M. Abdul Karim.
(10) Khan Bahadur Muhammad Asaf Khan.
(11) Maulana Muhammad Akram Khan.
(12) Mr. W. B. G. Laidlaw.
(13) Mr. Naresh Nath Mookerjee.
(14) Dr. Radha Kumud Mookerji.
(15) Khan Bahadur Mukhlesur Rahman.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 19th September, 1940, at 2-15 p.m. being the thirty-second day of the Second Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Election of the President of the Tilli Union Board.

120. Mr. LALIT CHANDRA DAS: (a) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state whether it is a fact that in the appeal by the appellant-defendant No. 1 Golum Mortuza Moulik against the decision of the District Judge of Dacca, affirming that of the Munsif at Manickganj, in a suit brought by the plaintiff-respondent Munshi Maniruddin Ahamad; Mr. Justice Henderson upheld the decisions of the lower courts declaring the plaintiff-respondent Munshi Maniruddin Ahamad as the duly elected President of the "Tilli Union Board" lying within the Manickganj subdivision of the Dacca district?

(b) Is it a fact that the Circle Officer presided over the meeting for election of the President? If so, what is the name of that Circle Officer and how long is he in office?

(c) Is it a fact that the plaintiff-respondent Munshi Maniruddin Ahamad obtained six votes in the meeting for election of the President and the appellant-defendant No. 1 Golam Mortuza Moulik got the remaining three votes? Is it a fact that the former is a member of the Krisak Proja Party and the latter is a member of the Moslem League Party of that locality?

(d) Is it a fact that Hon'ble Mr. Justice Henderson held that after the votes were recorded, the Circle Officer on most flimsy grounds ignored three of the votes given in favour of the plaintiff pretending that each candidate had an equal number of votes and proceeded to give his casting vote in favour of defendant No. 1?

(e) Is it a fact that the Munsif as a matter of fact found that the Circle Officer was acting in collusion with the aforementioned Golam Mortuza Moulik, defendant No. 1, and that Mr. Justice Henderson upheld that finding as fully justified?

(*f*) Do the Government intend to take action against that Circle Officer? If not, will the Government be pleased to state the grounds for not holding up that officer to punishment?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, Minister in charge of the Public Health and Local Self-Government Department): (*a*) Yes.

(*b*) Yes. The name of the Circle Officer is Maulvi Muhammad Ibrahim Hussain. He has been a Circle Officer for nearly 15 years.

(*c*) Maulvi Golam Mortuza Moulik received 3 votes. Munshi Maniruddin claimed to have received 6 votes, but the Circle Officer disallowed three of them on the ground that they had not been cast clearly enough in his favour. Government have no official information as to the political affiliations of the two gentlemen.

(*d*) and (*e*) Observations of the nature mentioned by the honourable member were made by the High Court and the Munsif in their judgments.

(*f*) The observations of the Court were made *ex parte* both of Government and of the officer concerned. Government, in the first instance, intend to obtain the latter's version of the occurrence.

Registrar of the Co-operative Societies.

121. Mr. RANAJIT PAL CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state whether in accordance with service rules the present Registrar of Co-operative Societies was due to retire on the 16th April, 1940?

(*b*) Is the Government aware that efforts are being made to have his term extended?

(*c*) Is the Government aware that Sir M. L. Darling, who visited this Province in connection with his enquiry regarding rural agricultural credit on behalf of the Reserve Bank of India, placed on record his opinion that the present Registrar was quite unfit for the post of Registrar of Co-operative Societies?

(*d*) Is the Hon'ble Minister aware of the fact that the Government of India withheld payment of the quota of grant payable to the Bengal Government for Co-operative education, etc., in connection with the programme of rural development of the Central Government and pressed for the appointment of a properly qualified person to be placed in responsible charge of the Co-operative Department before the Central Government's contribution could be paid?

(*e*) Is it a fact that the Government of Bengal secured the payment of the aforesaid contribution of the Central Government on the assurance given by the former that two additional posts would be forthwith created for the better and more efficient management of the Co-operative Department, namely, that of a qualified senior I.C.S. officer as Joint Secretary, over the Registrar and a second I.C.S. officer as a Deputy Registrar to be trained for eventual appointment as Registrar?

(*f*) Will the Hon'ble Minister be so good as to state the circumstances under which the I.C.S. officer, who was appointed to work as Deputy Registrar, was subsequently deputed to visit other provinces for acquiring knowledge and experience in the working of co-operative societies in those parts of the country and was trained for co-operative work at considerable cost to Government, has been sent away from the department?

(*g*) Is it a fact that the present Registrar entered the service under the Government of Bengal as a Sub-Deputy Collector and that during the long period intervening between his first appointment and his subsequent promotion as Assistant Registrar on the 9th August, 1929, and as Registrar on the 3rd January, 1933, he was not considered fit to be made a Deputy Collector, and that on both these dates, that is on the 9th August, 1929, when he was made an Assistant Registrar, and on the 3rd January, 1933, when he was made Registrar of Co-operative Societies, Bengal, the Co-operative portfolio was held respectively by the late Sir A. K. Ghuznavi and Nawab Sir K. G. M. Faroqui, both of whom were near relations of the present Registrar? Is the Hon'ble Minister aware that various charges of abuse were made against him both during his incumbency as Circle Officer at Feni and as Inspector-Liquidator of Co-operative Societies at Madaripur?

(*h*) Has the attention of the Government been drawn to the numerous statements that have appeared in the Press relating to cases of defalcation in Co-operative Societies, alleging in some cases the complicity of departmental officers from the highest to the lowest, mismanagement of public funds by the Registrar, jobberies and nepotism in appointments and promotions in the Co-operative Department, utilisation of the services of co-operative officers for purposes other than those for which they were appointed, namely, for manipulating elections in local bodies, legislatures, co-operative societies, etc., during the time Khan Bahadur A. M. Arshad Ali has held the post of Registrar?

(*i*) If the answer to the above questions be in the affirmative, will the Hon'ble Minister be so good as to make a detailed statement showing the action that has been taken in each case with a view to removing the apprehension that has been caused in the public mind in the matter?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) Yes.

(*b*) His service has been extended to the 31st December, 1940.

(*c*) to (*e*) No.

(*f*) The officer reverted to the general line on completion of his training in the Co-operative Department.

(*g*) I have no information.

(*h*) My attention was drawn to one paper, but the allegations contained in it were not substantiated.

(*i*) Does not arise.

Mr. RANAJIT PAL CHOWDHURY: Arising out of (*c*), would it be incorrect to say that Sir Malcolm Darling did make those observations against the Registrar?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Yes.

Mr. RANAJIT PAL CHOWDHURY: Arising out of (*f*), to what department did this I.C.S. officer revert?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: To the General Department.

Mr. RANAJIT PAL CHOWDHURY: What was the necessity of giving him this particular training in the Co-operative Department then?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, it was adopted as a matter of policy by the late Government that they should have some officers of the Superior Services trained in this department, so that whenever their services may be necessary they may be requisitioned.

Mr. RANAJIT PAL CHOWDHURY: Arising out of (*g*), did the Hon'ble Minister look up the old records so as to ascertain the allegations that were made in my question?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I looked up those of the records that were available in my office, but most of the records could not be available because they referred to various other matters concerning other departments.

Mr. RANAJIT PAL CHOWDHURY: Arising out of (*g*), can the Hon'ble Minister refute those charges?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have given the answer and I have nothing further to add to what I have already said.

Mr. RANAJIT PAL CHOWDHURY: Sir, the answer to that question is "I have no information". But after looking up the records can he refute those charges which should be in black and white?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have already said that those records that were available have been looked up but there are various matters mentioned in this part of the question which were not available to me.

Cases under Bengal Agricultural Debtors Act.

122. Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) the number of cases and the amounts involved in all cases before the Debt Settlement Boards from the inception of the Bengal Agricultural Debtors Act till December, 1939, and the amounts awarded by the Boards in the district of Noakhali; and

(*b*) the amount of instalments due up to December, 1939, and the amount paid up to that period in the said district?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: (*a*) Number of cases—145,969.

Amount involved in all cases—Roughly in the neighbourhoood of Rs. 5 crores. The amount involved in cases disposed of by awards is, however, Rs.1,03,93,509.

Amounts awarded—Rs. 39,13,451.

(*b*) As under the Act Government do not take any responsibility for the realisation of the instalments due under the awards, I regret, the information asked for is not available.

The Bengal Co-operative Societies Bill.

123. Mr. RANAJIT PAL CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state whether it is a fact that a circular letter

No. 9045(118), dated the 22nd December, 1939, from the Registrar of Co-operative Societies, Bengal, has been sent to the Secretaries of the Central Co-operative Banks forwarding therewith a copy of the Bengal Co-operative Societies Bill as passed by the Assembly, for examination?

(*b*) If the answer be in the affirmative, will the Hon'ble Minister be pleased to state—

(*i*) when was the Bill passed by the Assembly; and

(*ii*) the reasons which led the Registrar to mislead the Secretaries of the Central Co-operative Banks in the manner referred to above?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: (*a*) Yes.

(*b*) The Bill was not then passed by the Assembly, but through oversight the words "the Select Committee of" before the words "the Assembly" were omitted. This was, however, corrected in a subsequent letter. The Secretaries of the Central Banks were not misled as the title page of the Bill showed "The Bengal Co-operative Societies Bill, [1938] 1939. The Report of the Select Committee, with the Bill, embodying amendments recommended by them, annexed."

Arrest of the Members of the Workers' Unions.

124. Mr. KRISHNA CHANDRA ROY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if it is a fact that Devendra Nath Sukul, President and Raghu Nath Sukul, the Assistant Secretary respectively of the Budge Budge Jute Workers' Union, were suddenly arrested and eventually externed?

(*b*) Is it a fact that Sj. Rishi Banerjee, Secretary of the Calcutta Corporation Workers' Union and Devendra Bijoy Sen, Assistant Secretary of the said Union, were externed for their trade union activities?

(*c*) Is it a fact that Mohamed Ismail, Secretary and Gopal Acharjee, Assistant Secretary of Calcutta Tramways Workers' Union, were externed?

(*d*) Will the Hon'ble Minister be pleased to state on what grounds the above Trade Union leaders were externed?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) They were arrested and externed from Calcutta and certain other areas.

(*b*) Devendra Bijoy Sen has been externed but not Rishi Banerjee.

(*c*) Yes.

(*d*) On account of their subversive activities.

Reconstruction of the Hastings Bridge over Tolly's Nullah.

125. Mr. J. B. ROSS: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if it is a fact—

(*i*) that the bridge known as Hastings Bridge over Tolly's Nullah at Hastings was condemned and closed to traffic on the 12th October, 1938, and has remained closed to traffic since that date;

(*ii*) that on the 9th November, 1938, the Calcutta Corporation approved and passed the arrangements for financing the construction of a new bridge; and

(*iii*) that on the 9th December, 1939, the Executive Engineer, Canals Division, advised the Calcutta Corporation that the reconstruction of the bridge is to be kept in abeyance on account of the enhanced prices of steel due to war demand?

(*b*) Will the Hon'ble Minister be pleased to state if it is a fact—

(*i*) that a considerable volume of traffic between Garden Reach, Kidderpore Docks and Calcutta used to pass over this bridge;

(*ii*) that as a result of the closing of this bridge this traffic has now been diverted to the Kidderpore Bridge resulting in serious congestion at both approaches to that bridge; and

(*iii*) that on the 21st August, 1940, a resolution was unanimously passed by the Calcutta Corporation recording the Corporation's deep sense of dissatisfaction that no steps have as yet been taken by the Government, despite repeated representations and reminders from the Corporation, to repair the bridge or erect a new one and calling upon the Government to take immediate steps to have this important thoroughfare reopened to traffic?

(*c*) If the answer to clause (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state why no steps were taken between the date this bridge was closed to traffic and the outbreak of war to obtain steel at pre-war prices for the reconstruction of Hastings Bridge?

(*d*) If the answer to clause (*b*) is in the affirmative, has the Hon'ble Minister considered the desirability of taking immediate steps to strengthen the existing Hastings Bridge sufficiently to carry light traffic so as to relieve the congestion on the Kidderpore Bridge?

(*e*) If so, will the Hon'ble Minister be pleased to state—

(*i*) what steps he has taken or proposes to take; and

(*ii*) when the work will be taken in hand and the bridge reopened to traffic?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) (*i*) and (*ii*) Yes.

(*iii*) The Corporation of Calcutta was informed by Government in February last that they had decided to postpone the reconstruction of the bridge at Hastings.

(*b*) (*i*) and (*iii*) Yes.

(*ii*) I am informed that traffic at both approaches is heavy but that it cannot be said that there is serious congestion.

(*c*) As soon as the bridge was closed Government took up the question of reconstruction in consultation with the Corporation and the Improvement Trust. War broke out while the matter was still under consideration.

(*d*) Yes.

(*e*) (*i*) and (*ii*) I have been advised that in order to make the bridge fit for light vehicular traffic certain preliminary work will have to be done. I expect to receive an estimate at an early date, and Government will then be in a position to decide whether the necessary expenditure should be incurred.

Mr. J. B. ROSS: Arising out of (*c*), in view of the fact that the answer given to (*a*) (*ii*) is in the affirmative, will the Hon'ble Minister be pleased to state why consultations were still going on one year later?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, the consultation did not certainly continue for more than one year. It is true that Government had to consult various parties like the Calcutta Corporation, the Improvement Trust and the Police Department for traffic control. Further delay was due to the fact that this bridge was in charge of one department and the construction is to be entrusted to another department. I have no hesitation to admit that there has been some delay which should have been avoided. As I have stated in my reply, I am looking into the case to see that early steps are taken to come to an early decision on this matter.

Mr. J. B. ROSS: Arising out of (*e*) (*i*) and (*ii*), will the Hon'ble Minister be pleased to state whether there is still some doubt as to the re-opening of the bridge to light traffic?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I do not think so.

Mr. J. B. ROSS: Sir, answers to (*e*) (*i*) and (*ii*) do not seem to bear out that answer. It is stated there that when estimates are received, the matter would be considered in the light of expenditure involved. Will the Hon'ble Minister be pleased to state whether it is the intention of Government to re-open the bridge to light traffic?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Certainly, Sir, provided the estimate for it does not go up to an abnormal figure.

Mr. A. F. STARK: Arising out of (*e*) (*i*) and (*ii*), will the Hon'ble Minister be pleased to state whether plans have yet been completed for strengthening the bridge for light traffic?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Well, as I have already stated, I am still awaiting the estimate. It is not in my hand yet, but I believe the preparation of estimates has been taken in hand.

Mr. A. F. STARK: Will the Hon'ble Minister be pleased to state if plans for a new bridge have been prepared?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: As I have already stated, Government sanctioned the construction of a new bridge and had not the war intervened, we would have made quite a good progress by now. I am sorry I am not in a position to say whether the estimates for the new bridge have taken a final shape, but I am aware that the preparation is in progress.

Registration of new unlimited liability Credit Societies during the year 1939.

126. Mr. KAMINI KUMAR DUTTA: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state if it is a fact that the present Registrar of Co-operative Societies issued orders and circulars urging the organisation of co-operative societies in large numbers and that as a result of this over 6,000 new unlimited liability credit co-operative societies were registered during April to June, 1939?

(*b*) Will the Hon'ble Minister be so good as to place a statement on the table showing—

(*i*) the number of new unlimited liability credit societies registered during the year 1939;

(*ii*) the average number of members of each of such societies;

(*iii*) the average amount of share-money contributed by each member of such societies;

(*iv*) the average loan issued to each member;

(*v*) the average holding possessed by the members of such societies; and

(*vi*) the average outside debt per member?

(*c*) Has the attention of Government been drawn to the resolution with reference to the newly-registered societies in Bengal adopted at the joint meeting of the Standing Committee of the All-India Co-operative Institutes' Association and the Indian Provincial Co-operative Banks' Association held in Madras in October, 1939, which urged that expansion ought to proceed on cautious lines and without undue haste?

(*d*) Will the Hon'ble Minister please state whether he intends modifying the policy regarding registration of new unlimited liability credit societies accordingly?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: (*a*) and (*c*) Yes.

(*b*) (*i*) 7,065.

(*ii*) 20.

(*iii*) Re. 1.

(*iv*) Rs. 12.

(*v*) 8·6 *bighas*.

(*vi*) Rs. 46.

(*d*) Government have no such intention.

Stipends for training in the Dhanbad Mining School.

127. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department kindly refer to question and answer (No. 60, dated the 5th March, 1940), and be pleased to state in what papers in the past, the stipends were advertised inviting applications from candidates?

(*b*) Has the Hon'ble Minister examined the matter since as promised by him to give adequate chance to the Muslim candidates?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) The stipends were not advertised in particular papers but a press note giving details of the number of students to be admitted, the qualifications required for admission and the stipends available, etc., was issued.

(*b*) Yes. I have been in correspondence with the Principal, Indian School of Mines, Dhanbad, through the Director of Industries. The matter is still under correspondence and no final decision has been reached.

Report of the Fishery Expert.

128. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state when the fishery expert appointed by the present Government will submit his report?

(*b*) When can the public get advantage of the valuable suggestions made by the Fishery Expert?

The Hon'ble Mr. TAMIZUDDIN KHAN: (*a*) The Fishery Expert submitted his report on the 12th September, 1938.

(*b*) The expert has recommended the revival of the Fishery Department in the province together with various measures for the development of fishing and other connected industries such as fish curing and canning, etc. A scheme for the revival of the Fishery Department with a nucleus staff and equipment has been prepared on the basis of the recommendations of the expert and I hope to give effect to it in the near future. The various measures for the development of the industry recommended by the expert will be gradually adopted after revival of the Fishery Department.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the department take up anything new which it did not take up when the department existed previously?

The Hon'ble Mr. TAMIZUDDIN KHAN: It is premature for me to say. When the department is established, all these things will be examined carefully and whatever action is considered necessary to be taken will be taken.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister kindly say whether it is not necessary to find out first why the previous fishery department failed and why it is being set up again if there is nothing new or no reorganisation is necessary?

The Hon'ble Mr. TAMIZUDDIN KHAN: I do not know if my honourable friend is against the revival of the department. We shall examine the position and if we think it essential, the department would be revived as early as possible.

Last elections to the Council from the Bengal Legislative Assembly.

129. Khan Bahadur M. SHAMSUZZOHA: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if he is aware that election petitions have been filed to His Excellency the Governor for setting aside the last election of the members of Bengal Legislative Council elected from the Assembly Constituency?

(*b*) Is it a fact that Rai Bahadur Surendra Narayan Sinha has applied for the appointment of a Tribunal to set aside the election of nine members of the Legislative Council?

(*c*) What is the date of the petition?

(*d*) When can the appointment of the Tribunal be expected?

(*e*) What is the reason of such unusual delay?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) and (*b*) Yes.

(*c*) 22nd April, 1940.

(*d*) Shortly after the High Court vacation.

(*e*) The matter has been the subject of correspondence with the Hon'ble High Court.

Mr. J. B. ROSS: Will the Hon'ble Minister be pleased to state the names of the 9 members whose elections have been disputed?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think they are all those members who were elected by the Assembly to the Council.

SHORT-NOTICE QUESTION.

Rai Sahib JATINDRA MOHAN SEN: May I ask you, Sir, one question? I think the questions are now finished. I want to ask of you, Sir, about the short-notice question that I gave notice of on Monday last. I understand the House will prorogue to-day.

Mr. PRESIDENT: Government did not accept your question as a short-notice one.

Statement regarding Sibpur Engineering College situation.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, in connection with the introduction of an adjournment motion tabled by Mr. Ranajit Pal Choudhury regarding the admission of certain students in the Sibpore Engineering College, the Hon'ble Chief Minister promised to make a statement explaining the position. May I make the statement on his behalf? It is as follows:—

After the outbreak of war the Education Department considered how far it was possible for the Educational resources of the province to be utilised so as to give as much help as possible towards the successful prosecution of the war. The Principal of the Bengal Engineering College considered that use could be made of his institution for training up skilled technicians whose services might be of use to Government. The Government of India requested Mr. Sargent, Educational Commissioner with the Government of India, to report upon the training of technicians. After correspondence it was agreed that the Bengal Engineering College was a suitable institution at which trained technicians for the Indian Air Force can be turned out. A definite decision upon this point was not reached until recently. It was known towards June, however, that there was a possibility of the resources of the Bengal Engineering College being required to a certain extent in this work of national importance. A notice was issued on the 11th July to those students who had been interviewed and selected for admission. This notice was to the effect that as the facilities of the College might be required for training special technicians, candidates selected for admission were warned to take such steps as they deemed desirable for studying elsewhere as there was a possibility of stopping of the admission of new students. In consequence of this notice it was decided not to realise admission fees and caution money. No definite decision was reached by the Government of India within a reasonable time after the issue of this notice and the Principal of the College therefore on the 6th August issued a fresh notice that new admissions would be made as usual and that admission fees and caution money should be remitted. On the 4th September consequent upon the receipt of information from the Government of India that training facilities from 400 to 500 students were required at Sibpur, Government decided not to make arrangements for the teaching of any new students during the next session. Those students who had been admitted as new students have had their admissions cancelled. As soon as it was known that there was a likelihood of the admissions to the Bengal Engineering College being restricted Government sanctioned the formation of an additional section of the B.Sc. Class of the Presidency College to which many of the students who would normally have been entering the Engineering College were admitted. This section is still in existence and there is no reason to suppose that with the

co-operation of the University the minor difficulty caused by inability to attend a specified number of lecturers, etc., will not be overcome and those students who have had their admissions to the Engineering College cancelled thereby be enabled to follow the B.Sc. course in the Presidency College or indeed in any other college. The resolution assumes that students have been dismissed from the college and sent back to their homes. This is not true. The College Session would not under normal circumstances have begun until November 11th and no student has, therefore, started his new course at the College for the session 1940-41. All that has happened is that certain students who had then been admitted had their admission cancelled. It was first thought that it might be possible to admit a small number of students to the College and thus set free a certain amount of accommodation and provide certain facilities for the training of the special technicians. The fact, however, that a small number of students would require the same staff as the full complement, and they would require the use of workshop and occupy a certain amount of accommodation, made it quite clear that if it were to be possible to provide training required for the technicians of the Air Force, it would not be possible to admit any students at all as new students to the College. Moreover, it should be pointed out that all students who pass through the Bengal Engineering College are required before they are regarded as fully trained to undertake one full year of practical work in addition to their normal academic course for which the University Degree is awarded. In the case of Mechanical and Electrical Engineers this is two years. The practical training which it is proposed to provide for these Air Force technicians is similar to the type of training required in connection with the completon of the normal course at the College. The Principal is prepared to accept the special training given as equivalent to the practical training normally required for students. It is proposed to provide training for 400 to 500 students and provision will be definitely made amongst these for any of the students who have been provisionally admitted to the First Year Class of the College. It is regretted that certain students may be inconvenienced by the present arrangements but the necessity for offering the fullest possible aid to the Government of India in their attempt to provide a maximum number of trained technicians makes it imperative. The practical course that is being started is a most useful one and will be of very great benefit even to those students who under normal circumstances pursue the academic Engineering Course. Every attempt possible will be made to ensure the co-operation of the University so that individual students who may have been put to some inconvenience shall be provided with alternative arrangements.

Mr. HUMAYUN KABIR: May I ask one or two questions for further information, Sir?

Mr. PRESIDENT: Yes.

Mr. HUMAYUN KABIR: So far as the students reading for B.Sc. classes are concerned, Government have made certain arrangements for them and additional accommodation for such students of the Bengal Engineering College has been found in the Presidency College. But some students go to the Sibpur Engineering College after taking their B.Sc. degree, and they would otherwise have taken up post-graduate studies, either in Applied Chemistry or in Applied Physics or in Applied Mathematics. We find that no provision has been made for such students. There are, I understand, about eight or nine such students who fall under this category. These students are allowed to skip over one year or at any rate, they are allowed to combine the first two years of their training in the Sibpur Engineering College. I further understand that there is accommodation available in the second year class. The difficulty is not in respect of seats in the college but in respect of the accommodation in the hostels, because the hostels will be occupied by other men who would be coming up for training. I understand some of these students have sent in representations to Government through the Principal that they are prepared to live in tents; provided they are allowed to join the second year class and continue their studies. Will the Hon'ble Minister be prepared to take up the case of these students who are graduates and who would have otherwise taken up post-graduate studies if they had not gone to the Sibpur Engineering College? This is one question I want to ask.

The second question which I want to ask him is about the nature of the training which would be given to the technicians for aircraft manufacture. I understand that most of them will be given training as ordinary mechanics. Thousands of them will be trained all over India, and these mechanics will obviously require a cadre of officers to supervise their work, who also must have some training in Engineering and in aircraft construction. If Government consider the possibility of utilising some of these students who are graduates and who had joined the Sibpur Engineering College for training in the officer's rank of the aircraft mechanics, then perhaps the present difficulty would be obviated. We should like to have further information from the Hon'ble Minister on these two points.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I am afraid I am not in a position to give any definite information as regards either of these points, but certainly with regard to point No. 1, namely, hostel accommodation for students, the applications, if Government have received any, will receive their sympathetic consideration. As regards point No. 2, I am afraid I am not in a position to supply any

information; this is a matter of detail, and if the honourable member requires further information, I would ask him to come over to the Writers' Buildings, and I am sure the Secretary to the Education Department will place all facts at his disposal.

The Bengal Co-operative Societies Bill, 1940.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Co-operative Societies Bill, 1940.

Mr. NUR AHMED: Before the House adjourned yesterday, I was in possession of the House when I dealt with some aspects of this Bill; and to-day I shall deal with some of the other aspects of the Bill. In this connection, I would refer to an important and weighty question which was raised by no less a person than the Leader of the European group. He has observed that the Bill, as it has been drafted, is faulty, and that it contains certain clauses which are open to ambiguity and to different interpretations. With all respect to him, Sir, I differ emphatically from his observation. As regards the bad drafting of the Bill, he has said that Government should pay more attention to the proper drafting of Bills in future. I think, Sir, this House should not have been justified in passing this Bill if the remarks which have been made by my honourable friend, the Leader of the European group, were just, because with our eyes open we cannot pass a Bill which would go to increase litigation and in the end to result in unnecessary expenditure on the part of Government and also of the public. In this connection, sections 56 to 59 and 126 have been specifically mentioned. Section 56, Sir, I think, is clear; it provides that 25 per cent. shall go to form the reserve fund, and it is a compulsory provision. But I think the expression "such other proportion" was purposely used because it was the intention of Government to make this clause as elastic as possible so that they may use it in all sort of emergencies. There may arise an emergency when a society may, with good reasons, provide a reserve fund not higher than 25 per cent. and in such a case Government wanted to reserve the power of reducing this quota of 25 per cent. to a lesser figure. This may appear to be quite reasonable in the case of a society which has already a very good reserve fund. I find also a similar provision to that effect in the Madras Act. There are societies whose reserve fund has accumulated to one-half of the capital and it would be quite reasonable if the percentage of its contribution to the reserve fund is less than that of other societies. Therefore, I submit the original expression was a better one but by the amendment which has been accepted by the House the matter has been closed for the present. Government will have no power to make any exception in the case of such societies. Therefore, Sir, I think there was no ambiguity in section 56, as was suggested by

the Leader of the European group. Sub-section (*3*) of section 57 provides that after meeting the compulsory charge of the reserve fund, as laid down in section 56, the balance shall be distributed as dividend among the members, and it has been remarked in this connection that it does not provide for the payment of contribution as laid down in section 58. In my opinion, Sir, it is not so; and the wording is very clear. This sub-section says that subject to the provisions of sub-section (*2*), after the proportion required by sub-section (*2*) of section 56 has been carried to the reserve fund from the net profits of any year the balance of such profits, together with undistributed profits of past years, if any, may, to such extent and under such conditions as may be prescribed, be distributed as dividend among the members. These words are there. By that section Government reserve power to fix the quota to be distributed. But there is no doubt that in fixing the quota out of the balance they will provide for compulsory contribution under section 58. So, I do not think there was any ambiguity or anything incongruous in that sub-section. I also find that there are similar provisions there in other Acts, for example, in the Bihar and Orissa Act. Section 18 of that Act provides for compulsory reservation for reserve fund. Section 19 deals with such contribution to charitable purposes and section 21 is similarly worded as sub-section (*3*) of section 57 of this Bill. So, in my humble view—I do not pose to be a great lawyer and I think in knowledge and intellect I am inferior to the learned members in the Opposition, but I have got the right to put my own interpretation to make my own submission—section 57 is not ambiguous and is not incongruous.

As regards section 126, there were also two opinions about the interpretation of that section in this House. The Leader of the Opposition did not agree with the view expressed by the Leader of the European group. I think that section is clear as anything. It says—

"Where, as the result of an audit under section 75 or an inspection under section 81 or section 82, or an inquiry under section 83 or a report made in the course of the winding up of a co-operative society, it appears to the Registrar that any past or present officer, has at any time within a period of four years prior to the date of such audit, inspection, inquiry or report, as the case may be—

(*a*) made or authorized any payment which is contrary to the provisions of this Act or to the rules or by-laws; or

(*b*) by reason of his culpable negligence in respect of any prescribed matter involved the society in any loss or deficiency; or

(*c*) failed to bring into account any sum which ought to have been brought into account; or

(*d*) misappropriated or fradulently retained any property of the society;

the Registrar may inquire into the conduct of such officer.

Mr. PRESIDENT: Order, order. The honourable member should now conclude. This is the last day of the session. The honourable member promised that he would take only 10 minutes to finish his speech to-day. I am afraid that his time is up.

Mr. NUR AHMED: Sir, my humble submission is that there is no ambiguity in that section. There are some salutary provisions in this Bill which will do immense good to the whole movement.

Sir, there is one point to which I would like to briefly refer. Our learned friend Mr. Ranajit Pal Choudhury has said that this Bill has been framed with a view to the next election to the Legislature and he has amplified that by saying that the Registrar has been given large powers and he will compel the co-operative department to canvass for the next election. I do not attach any significance to his remark because under the Act as it stands now, the Registrar has got ample power to do so if he so desires and there is no necessity to enact a new law for the same.

A complaint has been made that a large number of amendments was moved but was not accepted. Rai Sahib Jatindra Mohan Sen has made much of this grievance. I find, however, that large number of amendments were moved by the Rai Sahib most of which related to the substitution of Collector or District Judge for the Registrar. Whether it would be substituted wrongly or rightly, wherever the word Registrar occurred, he wanted to substitute it by Collector or District Judge. I fear he has developed that disease, as I stated the other day, called "Registrar-phobia". Sir, we have heard of "Turko-phobia", of "Pan-Islam-phobia", of "Russo-phobia". And now we are having a sample of "Registrar-phobia".

Sir, the Hon'ble Minister was condemned for using the word "misapprehension". While the war is on us, the whole world is apprehensive and the air is surcharged with danger. So, the Hon'ble Minister thought, whenever an amendment was moved, that perhaps the particular member was suffering from that disease.

With these few words, I support the motion for the Third Reading of this Bill.

Mr. AMULYADHONE ROY: Mr. President, Sir, I rise to protest against the passage of the Bengal Co-operative Societies Bill which is now in its final stage in this Council. But, Sir, it is really a pity that the Bill we are going to place on the Statute Book has negatived the

principle of co-operation and that the principle of compulsion has taken the place of the noble principle of mutual help and persuasion. The Congress Party and the Progressive group of this Council tried to improve the retrograde provisions of this Bill but they failed to achieve their object on account of the weakness of the Hon'ble Minister to rise above his department. We are not less anxious and we are not less eager than the Hon'ble Minister to improve the Bill and to give a new life to the dying co-operative societies. But, Sir, the present Bill is undoubtedly retrograde and undemocratic and being robbed of the democratic ideal will ultimately lead to the collapse of the co-operative movement.

Sir, let us first of all refer to the amendments which have either been accepted or opposed by the Hon'ble Minister. The amendments moved from this side of the House, however sound, logical and beneficial, have been invariably and deliberately opposed on the ground of our labouring under misapprehension, as has been remarked times without number by the Hon'ble Minister. Sir, we do not claim that we are entirely free from all human defects, but it is too much to assume that all wisdom has been monopolised by the Hon'ble Minister.

Mr. PRESIDENT: Order, order. The honourable member should remember that it is the Bill which is under consideration and not the Hon'ble Minister.

Mr. AMULYADHONE ROY: Sir, I am referring to the Bill and not to the Hon'ble Minister, and I am submitting to you, Sir, that all wisdom and intelligence as possessed by the Hon'ble Mr. Mullick have found a place in this Bill. However, Sir, we have seen during the last 15 days that at least 25 amendments of a drafting nature, including commas and semi-colons, have been accepted. May I put to the Hon'ble Minister whether he accepted the amendments of the Coalition or the European groups under a misapprehension or were they better than the original draft of this Bill? As regards the apprehension, I do not blame the Hon'ble Mr. Mullick, for being deprived of the support of the majority of his community he must take shelter in it. Yesterday, my honourable friend Khan Bahadur Muazzamuddin Hosain threw a new light on this subject. He said that the Hon'ble Minister did not accept any amendment without the approval of his department. Sir, I did not know that the Hon'ble Minister is under greater apprehension of his department than the members of the Coalition Party and the European group. As regards the drafting, I hold the Hon'ble Minister and his department entirely responsible, for this Bill has for more than two years received careful consideration of the Hon'ble Minister, his department and his experts drawing high salaries from the Provincial revenues.

Then, Sir, the Co-operative Societies Bill abounding as it does with so many retrograde and undemocratic provisions does not deserve the support of any right-thinking man. We are alarmed to think that dissolution, reconstitution and the appointment of a managing committee shall be a matter of the Registrar's pleasure and the qualification or disqualification for election as an officer of a co-operative society shall depend on the whim of a public servant. Now, Sir, the dictatorial power which has been given in this Bill to the Registrar is not the only black spot. The system of audit, which once painted the Co-operative Department as black as possible, has been provided for in clause 79. I submit, Sir, to you that independent audit of account is the most efficient safeguard against financial irregularities. But, Sir, that protection can never be expected from the creatures of Registrar, or the Registrar himself who will direct the policy of the co-operative societies and is likely to shelter the departmental officers.

Sir, we had occasion to hear from the Hon'ble Mr. Mullick, who is in charge of this Bill, that his head hanged down in shame to speak about the defalcations. Did anybody take him seriously for his lip-dip utterance? His action in the past and his omissions to make material provisions for the future in this respect may be interpreted as an act of encouragement. I do not agree with the honourable Leader of the European group that disaster has been brought to the co-operative societies by only non-officials. My view in this respect is this: that those who are guilty of defalcation, embezzlement or mal-administration, be they non-officials or officials, must receive the highest penalty of law. But we have seen that series of serious observations and strictures by tribunals and courts of law on the conduct of departmental officers have been overlooked and instances are not rare that some of these officers have not only been sheltered by the department but have even been promoted to the ranks of officers below the Registrar. I may tell the House for their information that during the last 3½ years no other Minister has been made the target of attack so much as the Hon'ble Mr. Mullick on account of his officers being involved in defalcations. The officers of the Co-operative Department, high and low, have been found responsible by tribunals and by courts of law for defalcations, embezzlement and mal-administration, but no notice has been taken of them and no provision has been made for future protection.

Sir, it has been said by one of the members of the Coalition group that one of our colleagues characterised this Bill as communal. It is nobody's case that the Bill is communal. If I understood Mr. Ranajit Pal Chowdhury correctly, he meant that the Bill would be an instrument in the hands of the Ministers for future electioneering campaign. I do not like to place the Hon'ble Mr. Mullick, the Minister in charge of this Bill, into an uncomfortable position by referring to details and

by referring to facts which require correction. But I hope he will take note of the warning which was given by the honourable Leader of the European Group, and that he will not only take care with regard to the appointment of the Registrar but also of officers subordinate to him. I hope further that they will not be utilised as has been our experience as the secret service of the department for future electioneering campaign.

Sir, I do not like to take any more time of the House, but in all fairness, I think, the Hon'ble Mr. Mullick is entitled to a reply to one of his remarks which he made the other day in the course of discussion of this Bill. The Hon'ble Mr. Mullick is of opinion that the Congress members are always suffering from suspicion and are always suspicious. Let the Hon'ble Minister be assured that we want to place him on a higher plane. But if he voluntarily chooses to come down, let him have the cap that fits him. On account of the obstinacy he has shown in depriving the Public Service Commission from having any control in the appointment of the Registrar——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: On a point of order, Sir. Is the word "obstinacy" used by the honourable member in respect of the Minister, parliamentary?

Mr. AMULYADHONE ROY: It is very often used in Parliament, Sir.

Mr. PRESIDENT: I would request you to use a milder expression, although I do not hold that the word "obstinacy" is unparliamentary.

Mr. AMULYADHONE ROY: All right, Sir. I was going to say that he showed undue eagerness, and over-anxiety to retain absolute control over the appointment of the Registrar, and to place the Registrar above the court of law. I submit this to the honourable members of the House and leave it to them to pronounce their verdict whether the Hon'ble Minister is placing himself in the position of a suspect in this respect. Before I take my seat, I submit through you that if the charges I have made and if the facts I have given are denied by the Hon'ble Minister, let an enquiry be made into the allegations by an impartial tribunal and I with a full sense of responsibility proclaim to the public and the world at large that I would refuse to claim the privileges of a member of this House and agree to come before a court of inquiry and agree to take the consequences as an ordinary citizen, for the statement I have made before this House.

Rai Sahib JOGENDRA NATH ROY: Sir, while thanking the Hon'ble Minister, Mr. Mullick, for the hard labour that he has undergone during the last two years and a half in connection with this Bill, and appreciating much his great anxiety for improving the condition of the co-operative societies, I cannot but express at the same time my sincere regret at the lamentable fact that in spite of so much zeal, efforts and promises on his part, the Act has not made much headway towards the amelioration of the condition of the people of the country so far as the co-operative credit movement is concerned. Most valuable and wholesome suggestions were put forward by the honourable members of this side of the House—members, some of whom are reputed as sound lawyers and politicians and others having first hand knowledge of the practices and customs of the rural areas of Bengal; but none of these suggestions were considered worthy of acceptance. Even with the utmost stretch of imagination, the honourable members who proposed these well-reasoned amendments cannot certainly be suspected to have done so with communal or sectarian or selfish motives; but like the Hon'ble Minister they made these proposals for the good of Bengal according to their honest conviction. Even a man like Sir P. C. Roy has spoken against the general principles underlying the provisions of this Bill. These amendments were tabled with the sole purpose of removing the defects that have proved to be the causes of the failure of the co-operative movement in our province. A curious thing in this connection is that as many as five hundred and fifty-nine amendments were tabled by the honourable members of the Coalition Party. This shows that these honourable members were also fully conscious of the defects in the Bill, but ultimately they thought it prudent not to press or move their amendments probably under pressure of the "collective wisdom" of the party or at the party-whip's direction. As I sat noticing from day to day the adamant attitude of the Government, I often remembered if we were really enjoying democracy or simply an I.C.S. control in another form. This fact reminds me of a famous remark of an ex-Secretary of State for India—I mean Sir Samuel Hoare—on the floor of the House of Commons when the Indian Constitution Act of 1935 was under discussion. Sir Samuel then remarked: "Dogs will bark but the caravan will pass on". However, in my humble opinion, an opinion of one, Sir, who belongs to no party—the considered opinions of the members of this side of the House, at least those on major issues, should have been accepted; and this acceptance would have made the whole movement popular and successful.

It cannot be denied that the Act is certainly an improvement upon the previous Act, but it bristles with some glaring defects, most of which have been criticised threadbare on the floor of this House. In this concluding review, I do not like to mention all of them except

some very prominent ones which I cannot let go unnoticed even at this fag-end of the entire drama. The Act breathes an air of excessive officialism. This excess will certainly go to hamper considerably the spontaneous growth of co-operative societies in the rural areas of Bengal. A determined and elaborate attempt seems to have been made to bring all classes of people under the official control. The Hon'ble Minister has said that unless there is sufficient official control behind, the people will have no confidence in the movement. To this, my only pertinent question is—will it be possible for a healthy atmosphere, an atmosphere which will pulsate with "thrift, self-help, mutual aid and mutual confidence" to grow under the red-hot eyes of a Hitler? It is admitted on all hands—even on the part of the Government as early as 1904—that the co-operative movement should be handled by the Government in such a way as to ensure its spontaneous and steady growth in the rural areas with Government control decreasing by and by.

Then, Sir, the separation of the audit department so as to make it quite independent of the official control is what is badly needed. Every one admits it. A thorough and efficient audit inspires confidence amongst the investing public. This is certainly not possible unless the audit staff is made completely independent of the departmental control. An auditor should be quite free and not be always thinking as to whether a certain remark will please or displease his superior officer who is responsible for the good working of the institution. The ex-Finance Minister, Mr. N. R. Sarker, also during his tenure of office admitted the necessity of this separation. During my tenure of office for a period of over eight years as Chairman of the Asansol Municipality with its annual income of over one lakh fifty thousand, I often noticed how the auditors who were independent of the municipal administration were anxious to find out defects. Even the Hon'ble Minister in charge of this Bill admits the necessity for an independent audit system but he tries to avoid it on the plea of expense. But that certainly should not stand in the way in a matter of such extreme necessity and importance. Strict and efficient audit is the very soul of the whole organisation. Does a man hesitate to spend money to save his soul? Therefore, Sir, I think the Hon'ble Minister's argument is not at all convincing on this point.

Then, Sir, comes the Registrar—dictator of dictators, a person combining in him the functions of an executive head, a judge, an appellate court, a legislature and an enunciator of principles. Indeed, a unique person he is. He is to be appointed by the Government solely on their discretion and not on the advice of the Public Service Commission—an expert body principally composed for the clear purpose of appointing the best man available for a responsible post under the Crown. Should the Hon'ble Minister grumble if one suspects this

Registrar to be a prominent man of the party that forms the Government of the day and to be not necessarily a man possessing the best qualifications? It is a matter of strong public grievance that the lamentable failure of co-operative movement in our country was principally due to the excessive power of the Registrar. It is complained that his constant interference with the day to day activities of the societies has materially damaged them. Such was the position of the Registrar under the previous Act and this Act proposes to give him more power.

Special provisions have been made for the immunity of the Registrar and the staff of the department so as to make them untouchable by any law of the land—both civil and criminal. The result will be that even if there occurs a heavy loss on account of the negligence or want of foresight and proper judgment of the Registrar, it cannot be questioned in a law court. I have given my most serious consideration to all that the Hon'ble Minister has said on this point. But I still believe that these wide powers will very likely result in many abuses and will ultimately hinder the healthy growth of the movement. People will have reasonable apprehensions and suspicions regarding the well-balanced exercise of these wide powers.

My honourable friend Mr. Lalit Chandra Das's amendment regarding the composition of an Advisory Committee should have been accepted. It would have kept the department in direct touch with the wishes of the people with regard to the movement, which, as my honourable friend says, would have acted as a sufficient safeguard against excessive official activity and interference, and, lastly, would have helped the Registrar in directing the movement on right lines.

Lastly, the penal clauses in the Bill are rather excessive and harsh. The failures of the Co-operative Societies are not due so much to the fact that most of the debts of the members remain unrealised as to the malpractices and maladministration of the official staff. I am afraid, the excess of penal provisions in the Bill may ultimately affect the rural credit.

Sir, I do not like to take more time of the House. I am an optimist. I do not like to end this review on a deeply pessimistic note. I sincerely wish that even within the regime of this Hon'ble Minister further amendments will be tabled by the Government in the light of the suggestions made on the floor of both the Houses to rectify the defects mentioned above, thereby enabling this most beneficial movement to proceed over the path of steady progress and spontaneous growth, ameliorating the sad condition of half-clad, half-starving dumb millions of the unfortunate people of rural Bengal, and creating more and more faith and confidence in them for this movement.

Mr. SHRISH CHANDRA CHAKRAVERTI: Mr. President, Sir, most of us on the side of Opposition appeared to be perturbed over the introduction of a Hitler in this Bill in the shape of the Registrar. If we look into the history of the co-operative movement in this country, we will find that the societies have been from their inception fashioned after German model, better known as Raiffeisen system. A German system cannot be complete without a Hitler. We have seen that even our British, rather Scottish, friends who are here are prepared to tolerate Hitlerism and its method in India although they have, in their own country, staked everything to root out anything that smacks of Hitler and his methods. Only the other day, some of the persons who participated in the Anti-Fascist day movement were arrested.

The present Bill as it has emerged out of the second reading has gone a step further. The outward structure of the Raiffeisen system is only kept and the spirit of co-operation, namely, "the promotion of thrift, self-help and mutual aid" for the "common economic interests" as visualised in the Statement of Objects and Reasons and also in the Preamble is conspicious by its absence. The appellation "Co-operative Societies Bill" is entirely a misnomer; at best it may be called a state-aided benevolent society for rural credit, subject, however, to being converted into an electioneering bureau at the order of the Minister at the time of General Election. Not long ago, Mr. N. R. Sarker, ex-Finance Minister, in his note on the Problem of Rural Credit in 1939 remarked that "false expectation has been created among ignorant masses that Government would allow all loans and debts to be written off". * * * "This non-payment mentality has been further encouraged by irresponsible electioneering propaganda". "It has therefore become necesary to devise a new and scientific system of rural credit. Government is not a suitable agency to intitute and manage a permanent credit organisation of such magnitude to cater to the credit requirements of individual agriculturists although it may be urged to do so under political pressure." Before launching into a legislation of such far-reaching character affecting the vital interests of a vast number of our countrymen, a commission of experts and experienced men without any political bias should have been appointed to examine the conditions of this province and causes, which led to the failure of this movement and to suggest on what lines the movement should be conducted: whether under state-patronage or otherwise and such further or other relevant maters.t In the course of about four years, the present Government has dabbled in all kinds of legislation which requires careful handling and searching scrutiny. They are anxious to place something in the statute book with a high sounding name. May I borrow a phrase from the speech of my honourable friend Mr. Ross and say that these are "electioneering laws", for purposes of propaganda only, and are not inspired by a genuine desire for progress

and welfare of the mass? Khan Bahadur Muazzamuddin Hosain of the Coalition group with all his experience of co-operation has succeeded, with the culpable "misapprehension" of the Hon'ble Minister in charge, in getting the word "economic" deleted in clause 11 of the Bill and thereby removed the only restriction enforceable on these societies. Sir, may I be permitted to read an extract from Mr. Calvert's book, page 33, in which it is said: "The only restriction in India on the objects of a society is that these must be included in the economic interests of the members. This would seem to exclude the promotion of any religious object and would also serve to exclude politics. In Belgium the societies are frankly divided into Catholic and Socialist groups and political parties follow the same lines so that the societies feed the funds of the politicians. In Denmark the societies have kept strictly neutral and take no part as such in political or religious movement. In England the same policy has been pursued and undoubtedly has served to strengthen the hold of co-operation on the people." These societies may, therefore, be twisted and turned into a religious or political organisation to suit the political exigencies of the situation by the Government. The loud protests of Khan Bahadurs Naziruddin Ahmad and Muazzamuddin Hosain against Mr. Pal Chowdhury's little bit of "thinking aloud" have betrayed this underlying motive. Both the Hon'ble Minister and his permanent supporter Khan Bahadur Naziruddin Ahmad said that we could not table any amendments other than what was done in the Lower House and thus made mistakes. They forget conveniently, of course, that Congress party is one and the same in both Houses and is guided by the same principle and policy as is the case with the Coalition party in both the Houses. I am sorry on behalf of my party members and myself if any unintentional mistakes crept in and caused inconvenience to my honourable friend Khand Bahadur Naziruddin Ahmad, whom, we admire for his minute observation and correction of obvious mistakes. I cannot, however, help mentioning here that if Ministers with an army of secretaries and a large Secretariat, commit so many palpable mistakes to be corrected by Khan Bahadur Naziruddin Ahmad and send Bills without sanction of Governor where it is necessary, poor members of the Opposition may be pardoned for committing mistakes in doing parliamentary work without any resources practically. My party and other members of the Opposition feel deeply aggrieved at the conduct of the Government in recklessly rejecting practically all their amendments good, bad or indifferent, with an utter disregard for parliamentary conventions. Opposition is regarded in a national State, as a part of the Government. In England, the Leader of the Opposition, I understand, receives a salary from Government. In all major legislations, the Opposition is consulted and a policy of compromise is adopted in forging an Act out of the legislative anvil. "Problems of compromise", wrote Lord Morley,

"are of the essence of the parliamentary and cabinet system". No political party can be formed without compromise and none can function within a democratic frame-work without it." I moved a motion for sending the Bill to a Select Committee with a view to discuss the provisions and come to an understanding or compromise if possible. But, Sir, it was forthwith rejected by the votes of the Ministerial Party. This procedure would have done away with nearly one thousand amendments tabled in this House. It would have saved the labour of the Council Department and paper and ink of the Government in a dear market, as was rightly observed by the Leader of the European group. Further, it is admitted in the speeches made by Khan Bahadur Muazzamuddin Hosain and others that the Bill has been introduced mainly for safeguarding the interest of the capitalists and more at the suggestion of the departmental head than the Minister or the members themselves. I am sorry that I cannot congratulate the Hon'ble Minister for producing this piece of legislation as we are very much apprehensive about its successful working. The Government has neglected to accept any suggestion put forward by us, who are a minority here, but we believe that the majority of the poor masses will give us a ready hearing outside this House.

Lastly, I appreciate the honourable Minister's tenacity, industry and above all unplacable partisanship.

With these words, Sir, I beg to oppose on behalf of the Congress group the motion moved by the Hon'ble Minister.

Mr. HUMAYUN KABIR: Mr. President, Sir, it is always a great pleasure for me if I can find myself in agreement with my honourable friend Khan Bahadur Saiyed Muazzamuddin Hosain and my honourable friend Mr. Ross, but unfortunately it is a pleasure which I do not very often experience. In the case of this Bill, I find that I am in complete agreement with what has been said by the honourable the Leader of the European Party and by the Deputy Leader of the Coalition Party in this House. But I think, Sir, one of the reasons for that is perhaps to be sought in the misapprehension about which the Hon'ble Minister was saying so much in his speeches. There has been such a cloud of misapprehension,—and I think my honourable friend Mr. Nur Ahmed in spite of his attempt to dispel that fog of misapprehension has only added further to that fog,—there has been such a fog of misapprehension in this House that we have lost our bearings and we find that we are all together in the same boat, almost all united in our condemnation of many of the provisions of this Bill and yet at the same time also recognising it, if I might say so, as a necessary evil. I do not for a moment deny that such a Bill was necessary, for the last Co-operative Act of 1912 has now become most inadequate. It was necessary and desirable that there should be a new Co-operative Bill. But the Bill in the form in which it is being passed by both Houses of the Legislature

is,—and I think the Hon'ble Minister will himself admit,—a necessary evil. For, I think he cannot deny that there are features in this Bill which cannot be regarded as anything but evil, and in fact his defence in many of his speeches has been that if these are evils, these are necessary evils. I refer first, Sir, to the element of compulsion which has been brought into this Bill and to which reference has been made by more than one speaker. Instead of a Co-operative Bill, it might well be called a Compulsion Bill as an attempt has been made to compel non-official workers and workers of the department to behave in a particular way and carry on their work of administration. The defence of the Hon'ble Minister in the Statement of Objects and Reasons was that if these principles are introduced in the co-operative societies, if these penal measures are put into the Co-operative Societies Act, then a new regime of business methods will be introduced in the working of the societies. In other words, he himself recognises that this is a necessary evil. These penalties are undesirable; but his defence is that although they are evils, they are necessary. But we on this side of the House are fully agreed that these are not necessary to the extent to which he has regarded them as necessary. It is true that to some extent the non-official workers have been responsible for the failure of the co-operative movement in this province, but it would be a mistake if the fault is attributed to the non-official workers alone. As Khan Bahadur Saiyed Muazzamuddin Hosain has said, the two greatest culprits in this direction were illiteracy and poverty: and if illiteracy and poverty were the two greatest causes of the failure of the movement in this province, I think it is unjust to say that it was the lapse of the non-official workers that has led almost to a collapse of the movement in Bengal. Again, my honourable friend, Khan Bahadur Saiyed Muazzamuddin Hosain, has said that so far as two-thirds of the societies are concerned, they are already so moribund that even this drastic measure—one might say, even this desperate measure of the Hon'ble Minister—is not going to save them. As for the remaining one-third of the societies which are relatively better off, they resent and oppose it and perhaps this Act may interfere with their proper working. If sixty-six per cent. of the societies are so moribund that the Bill is useless so far as they are concerned, and if the other thirty-three per cent. will resent its working, then I ask, is this Bill meant only for one per cent. of the societies? That, Sir, is a point which the Hon'ble Minister should consider.

At the best we may regard this Bill as a necessary evil, and the Hon'ble Minister himself has to admit that it is, if anything, a necessary evil. But, Sir, the evil has been exaggerated, if I may say so, by the obstinacy of the Hon'ble Minister with regard to the amendments which have been moved by different members of the House. It has been said that it is necessary that the Registrar should have a large power. It is necessary for reorganizing the department and for reviving the

co-operative movement that the Registrar should have great powers. We may perhaps go so far as to say that the setting aside of a committee should be within the power of the Registrar. But that the Registrar should also act as a tribunal and order that a certain member cannot even seek re-election to a particular society of which he was a member himself, is, I think, going too far. Again, when the Registrar was being given such great powers, was it not necessary that the appointment of the Registrar should be above the influence of a party or the personal predilections of the Hon'ble Minister concerned? We have been pressing time and again, and on this point there is a great deal of agreement amongst all the members including the members of the Coalition party, that the Registrar should be appointed out of a panel selected by the Public Service Commission. We would concede to the Hon'ble Minister the right of nominating a person out of the panel who should be appointed as Registrar. In spite of that, the Hon'ble Minister refused to accept this reasonable suggestion, a suggestion which would have protected the Minister himself from the suspicion of wanting to influence the appointment of the Registrar and in this way being open to the charge which has actually been made on the floor of this House that in future he might use his department as an electioneering agency.

Again, Sir, I regret we have not discussed the question of the appointment of Assistant Registrars. To a very large extent, the work of the Registrar will be done by the Assistant Registrars, and the Registrar will exercise his powers through the Assistant Registrars; but there has been very little discussion as to how they are going to be appointed. Most of the powers to be exercised by the Registrar shall be exercised by the Assistant Registrars, and, therefore, it is desirable that the Assistant Registrars should be appointed by the Public Service Commission. In this Bill we are not told as to whether the Assistant Registrars will be appointed by the Public Service Commission or by the Minister, but we can infer from the attitude of the Hon'ble Minister that the appointment of the Assistant Registrars will be kept outside the purview of the Public Service Commission. I shall not be wrong if from this attitude about the appointment of the Registrar I make that inference. But this is a state of affairs which is undesirable not only in the interest of the Hon'ble Minister himself, it is undesirable also in the interest of the public and of the co-operative movement in this province.

Then, there is the question of separation of audit from the administration. Here there is a great deal of unnecessary misapprehension —again I am using an expression of the Hon'ble Minister—created by the members of the Coalition Party, particularly by my friend, Khan Bahadur Naziruddin Ahmad. He seems to think that there has been a reflection on the capacity or the honesty or both of the Registrar in

making the suggestion that audit should be distinct from the administration. This is absolutely wrong. In other spheres also, we find audit and administration as entirely distinct from one another. We have an Accountant-General of Bengal; but that does not suggest that we have any suspicion about the honesty or the capacity or both of the Finance Minister or the Finance Secretary. In spite of the fact that we have a Finance Secretary and a number of Under-Secretaries and Assistant Secretaries and in spite of the fact that we have an Hon'ble Minister in charge of Finance, there is a separate audit department for the sake of better administration and better control, and it is for this reason that the Government of India's Department of Audit has been enjoying the confidence of the public. There is only one argument, so far as the co-operative movement is concerned, against the separation of audit. That argument is that in many cases Supervisors and Auditors not only have to audit the accounts of societies but they have also to write them up for the societies are composed of illiterate members who cannot themselves write them up. But this is really no argument against separation. Even in such cases, there would have been no harm if administration and audit had been kept separate. There is no reason why, when an Auditor under the control of the Registrar can write up the accounts, an Auditor directly responsible to the Hon'ble Minister could not write them up. So long as there is an officer there—it is immaterial whether he is under the control of the Registrar or under the control of the Hon'ble Minister—he can be expected to write up the accounts. In any case, it would increase public confidence if audit and administration had been kept separate.

Then, there is the question of penalisation of non-official workers to which reference has been made. I am sure the Hon'ble Minister will argue, as I have said already, that this was a necessary evil. Would it not have been better if the Hon'ble Minister had tried to infuse a spirit of co-operation amongst non-official workers? Would it not have been better if he had tried to create an enthusiasm in them so that they could have come in larger numbers and in that way made the co-operative movement a greater success than it has been in the past? The method of penalisation is not the best method of invoking enthusiasm amongst the workers, and the Hon'ble Minister, may well find that this method will have the effect of driving away honest, efficient and serious co-operators, because they do not want to take the unnecessary risk of a stigma on account of any lapse which may have been committed either by themselves or their associates. Why should they face the obloquy provided for in the Bill? Therefore, it would have been better for the co-operative movement if the Hon'ble Minister had not emphasized the element of penalty so much.

There is one other point upon which I want to touch, and it is the question of bad drafting of the Bill. Sir, I do not want to develop

that point at great length, for after what Mr. Ross, Khan Bahadur Naziruddin Ahmad and Khan Bahadur Muazzamuddin Hosain have said, I think it does not lie with any other member of this House to say that there are no ambiguities. The Hon'ble Minister has himself admitted that there are ambiguities, but in this connection I have found one honourable member who is more loyal to the Hon'ble Minister than the Hon'ble Minister himself. Mr. Nur Ahmed himself spoke in favour of certain amendments because the drafting was not clear and because he thought that the Hon'ble Minister should accept them. That honourable member should not now say that there are no ambiguities. If there were no ambiguities, why were so many amendments tabled and considered? If the honourable member really believed that the drafting was good, he should have opposed such amendments and not voted for them. In fact, so many last-minute changes had to be made, and so many short-notice amendments had to be put in that the Hon'ble Minister himself was not able to understand the exact meaning of particular clauses.

In conclusion, Sir, I would revert to the note on which I opened my speech, that perhaps it is a Bill which is a necessary evil. We do not deny that some change in the co-operative movement was necessary. We also do not deny that some elements in the Bill are good. But equally, can anybody deny that other elements in the Bill are both evil and unnecessary? At the same time we cannot understand how an honourable member can say that this is a communal Bill. What this Bill has got to do with communalism is more than I can understand. If we bring in communalism in this Bill, we can as well read communalism in the Tenancy legislation; we can as well read communalism in the Money-lenders legislation; we can as well read communalism even where there is no communalism. I am sure most of the members will agree that if this Bill has any defects, these are defects of bad drafting, these are defects of conception, these are defects of execution, these are defects due to want of imaginative power. The Bill has not been drafted with a far-sighted vision; too narrow and official a point of view has been adopted in it.

In the end, Sir, I would like to conclude on a pleasant note. I congratulate the Hon'ble Minister for the patience and the tenacity with which he has piloted this Bill through this House. In many cases we have disagreed, but he has stuck to his points and supported by the majority which is behind him carried his points through, even though there was no point in what he said.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, now that we are getting to the end of our labours so far as this Bill is concerned, I do not think I shall be justified in tiring the patience of the House by inflicting a long speech specially after we have had the pleasure of

listening to the speeches of the honourable members on the third reading of the Bill. But before I proceed to make a few humble submissions in respect of some of the allegations made with reference to this Bill, I would make a few preliminary observations just to clear up some of the difficulties from which we have been suffering. Now, that we are at the end of our labours, I do not think I should be justified to use the same expression once again and I hope when I make my submission there will be no more misunderstanding or misapprehension.

I am extremely grateful to the honourable members who have taken part in this debate at this concluding stage of the Bill. I have followed their speeches with great respect. I thank them all for the very nice words they have said for the little work that I have been able to put in. I have also taken with great respect the observations of the last speaker, my friend Professor Humayun Kabir, about the work that I have done in connection with this Bill. My friends towards my left have also been good enough to give me their good wishes though in a caustic manner. I do not think, Sir, that time will permit me to reply in detail to the various remarks that have been made by my friends. But in trying to meet some of the points it will be necessary for me to place a few facts in some detail.

To start with, as I have said, I would like to make a few preliminary submissions before I get to the provisions of the Bill. My friend Rai Sahib Jatindra Mohan Sen started with his "neither accepting nor rejecting" policy and said that this was a Fascist method and that he did not believe in there being honest voting so far as the different amendments to the clauses were concerned, and perhaps in a taunting manner he referred to the observations made by Khan Bahadur Nazir-uddin Ahmad about the collective wisdom of the party to which he belongs. In respect to the first point, my esteemed friend Mr. Nur Ahmed has given him the answer. The Bill is there and it is for the House to say whether it has been actuated by any dictatorial method or for the matter of that by Fascist idea, as my friend sees in it.

As regards the mode of voting it may be left to the judgment of the House whether it was honest or not. With regard to the collective wisdom of the party, it is for the Minister to submit a Bill for the consideration of the House and whether the Bill should have the approval of the House or not depends certainly upon the collective wisdom of the House. I submit, therefore, that these observations should never have been made.

Then, Sir, as regards his criticism about my use of the expression "misapprehension" now and then, I have every sympathy for my friend. If I remember aright, about one of his amendments he will perhaps be able to find that there was nothing but misapprehension lingering in his mind throughout, I mean the amendment relating to the appointment of the Registrar. As has been suggested by one of

the honourable members, he has been suffering from "Registrar-phobia." Therefore, from the very beginning to the end he was saying that whatever power has been given to the Registrar should be subject to the scrutiny of the District Judge.

Sir, may I respectfully ask him now at this stage just to tell the House as to what the District Judge will do if he is asked to consider a question as to whether or not a managing committee should or should not be dissolved or reconstituted. Sir, I have never said that the District Judge has got no knowledge of worldly activities, but I have all along maintained the view that where there is the question of internal administration it must be left to the department to see whether or not there has been any mistake or anything has gone wrong. But where there is a question of penalty, I have thought it fit that the matter should be dealt with by one who has judicial experience behind him. I submit, therefore, Sir, that there should not have been any observation of this type made at least at this stage of the Bill. He maintains that the future will be their judge. Sir, if past and present actions are any guidance for the future, I do maintain that the labours we have undertaken for this Bill will certainly show that we have tried to meet the existing circumstances so that we might be able to get rid of the defects and difficulties and might yet be able to put the co-operative movement on a sounder footing in the near future.

As regards my friend Mr. Ranajit Pal Choudhury, the answer has been given by Professor Kabir. He reads communalism in everything and suggested yesterday that if the Hindus were to be ruined, the Muslims would not escape the result. Well, Sir, I can only remind him that it was perhaps the Hindus who are to be blamed, if there is any mismanagement so far as the co-operative movement in this province is concerned. Sir, I will not go into details but perhaps Mr. Amulyadhone Roy does not know, as he was not here in this House when I answered a question on the 8th of February, 1938, put by one of the former members Khan Bahadur Muhammad Ibrahim which was supplemented by Khan Bahadur Ataur Rahman. There I quoted some instances and my friend Mr. Pal Choudhury would have seen that at least some respectable people of his own district were heavily involved. After what has happened in his own district, I should have expected that at least Mr. Pal Choudhury would come forward and give the greatest support to a measure of this kind. I maintain once again that it is just to meet such cases that this Bill aims at.

Sir, we have known of cases in the past where members have taken loans from village societies for the purpose of running elections. These loans have not been paid back. Now, at the time of audit by the officers of my department these things were detected and the matter was put to arbitration. When awards were made, the village societies would not even take any action for realising all these loans. Sir, we

desire to put a stop to such thing being done by a co-operative society. It is only for that purpose that we have provided specifically in section 63 that the loan should be used for the purpose for which it is taken. We have also provided in section 62 that a member of a co-operative society when he comes forward with an application for loan has got to disclose to the society the nature of the loan, the purpose for which it is taken and the amount of the loan. We have also provided in section 39 of the Bill that the maximum or normal credit of a member has got to be determined before he can be given any loan whatsoever. I submit, therefore, that there is hardly any justification for an assertion of this type being made after we have been able to get through the clauses of the Bill.

My friend Mr. Pal Choudhury suggests that this is an electioneering measure. Well, Sir, I can only leave it to him to find out as to whether there is anything of this character in this Bill. But perhaps he sees the world through his coloured glasses and therefore he cannot find anything else so long as he has coloured glasses on. I can only assure him that so long as this Government is in office it will certainly see that His Majesty's Services keep absolutely free from politics. It has taken steps for the last three and half years to keep all His Majesty's Services free from political activities but it has also maintained the view that when a decision has been taken and a policy has been settled, it is expected of all His Majesty's Services to strictly abide by the same loyally.

Sir, I am extremely sorry for some of the observations made by my esteemed friend, Khan Bahadur Muazzamuddin Hosain. But, Sir, when he says that he has not been able to persuade me to agree to any reasonable suggestion that he made, I have taken that as a very great compliment. Now he has realised that there is at least one man in the Cabinet who will not budge an inch from his own judgment unless it be a superior judgment. The Minister might take a different view from the party supporting the Government but I submit that Government will have to accept the decision of the House. Therefore, the question of the Minister being obstinate or anything of that character does not arise. But it was certainly within my province to try and convince my honourable friends supporting Government that there was reason for what we have suggested in the Bill and that being the position, the observations that he has made have come as a very great compliment to me. I take it that after his experience as a Magistrate for 30 long years, he now finds one in the Cabinet the like of whom he did not find while he was in service under the bureaucratic system of Government.

As regards his argument of reason, I would only remind him of his own experience as a Magistrate that when he was called upon to try a case, even a criminal would suggest a reason to the Magistrate.

Therefore, reason is a relative term and not an absolute one. We have got to examine the reason in the light of existing circumstances and then to see how we can get to the conclusion.

Sir, with regard to my friend Mr. Ross, I am extremely sorry that he should have come forward with such an observation at the close of the consideration of this Bill. With regard to the particular point that he has mentioned that the Coalition Party supporting Government have submitted a large number of amendments, my friend Khan Bahadur Naziruddin Ahmad has given an answer. So also has been done by my friend Mr. Nur Ahmed. I do not see why the party supporting Government should be deprived of their own judgment to suggest to Government and also to the House that something better ought to be done, so that the conditions mentioned in the Bill might yet be improved. It is certainly within the province of every member of the House to suggest that such and such course ought to be adopted by which a measure of this type could be improved upon. Well, Sir, that being the position, I do not think I should be justified in saying anything more. But he is rather unkind to me when he says that there have been so many drafting defects and that the Government has produced this Bill in a slipshod manner. May I only remind him that this Bill was published in the Gazette on the 7th of July, 1938. After it was considered at a conference consisting of non-officials taking interest in the co-operative movement and after the approval of Government it was placed for consideration in another place where it had its origin. It went through so many changes where representatives of the people had an opportunity of examining the provisions clause by clause, the Bill having its origin in that place. I submit it it rather unkind that a member of this House consisting of Elders in reviving a measure of this nature should have used an expression of this character. He has only given instances by reference to clauses 56, 57, 58 and 126. If he had felt so much, could we not have expected him and his group to table a few amendments suggesting that these changes should be made in order that the Bill might be improved with respect to clauses 56, 57, 58? Answer has been given by my friend Mr. Nur Ahmed who pointed out that there was nothing wrong in the placing of the clauses. I submit it is only a matter of form. It does not take away anything from the substantive character of the provisions. Sub-clause 3 of clause 57 specifically mentions that whatever is to be done under clause 58 has got to be done after sufficient sum has been carried to the reserve fund under section 56. I submit there cannot be said to be any defect of drafting so far as this point is concerned. As regards clause 126, an attempt was made and very seriously made by my friend Khan Bahadur Naziruddin Ahmad to show that when the Registrar has got to take action under the provisions of this Act and the rules or by-laws framed under this Act, there cannot

be any question of any retrospective effect being given to the provisions of that section. But to clarify the position, I did not object to the little amendment that was suggested. I do not think any honourable member should have been justified in saying that because Government accepted an amendment, therefore there was something wrong. I submit, therefore, this observation of Mr. Ross was not quite merited and I hope this little submission of mine will not be misunderstood.

Now, Sir, coming to some of the provisions of this Bill, various things have been said and perhaps I shall be annoying the House if I give replies to all of them. But to one or two points I must attempt to give a reply so that the difficulties we are suffering from may yet be removed.

Sir, a very serious question has been raised with regard to the appointment of the Registrar and no less than 5 or 6 honourable members have mentioned that subject when they suggested that it would have been perhaps better if this appointment were to be made on the recommendations of the Public Service Commission. When clause 9 was discussed, I submitted to the House that there was no justification to refer this appointment to the Public Service Commission, for it could never be and it was never intended to be an appointment of a direct character. If Government were to choose from amongst their officers of the existing services, there was no reason in suggesting that this should be done by the Public Service Commission. Then again, under the Government of India Act, the Public Service Commission have got to be consulted with regard to all appointments to be made by Government unless the Governor in his discretion feels that some of these need not be sent to the Public Service Commission. As I submitted to the House on that occasion, an appointment like this has got to be made with the full approval and concurrence of His Excellency the Governor. There cannot be any the least doubt lingering in the minds of my honourable friends that Government would not try and see that they get the very best officer from amongst the services. Some of my friends have expressed some anxiety. But I can only assure them that my anxiety is no less than theirs to see that we get the very best officer from amongst the services of Government for an office of this character.

Now, Sir, as regards the question of audit and general administration, to which some honourable members have referred, I may only point out that Chapter VIII deals with that question and when this question was being discussed I tried to show to the House that there was no point in this sort of suggestion so far as village societies are concerned. It is not a problem so far as they are concerned. But so far as the central banks are concerned, my honourable friend

Mr. Hamidul Huq Chowdhury showed to the House that the department had already separated audit from the general administration. As regards the question of defalcation, it is not the fault of any officers of the department. Even where audit was done by outside agencies, defalcations of a very serious character had appeared and matters had to be placed before the court.

Sir, so far as the powers of the Registrar are concerned, I maintain once again that this is based upon experience. I have showed, when the different clauses were discussed on the floor of the House, that wherever there was the question of abuse and misuse of power, it was not without remedy, for an appeal has always been provided for. I submit, therefore, Sir, there cannot be any the least misgiving in our mind at this stage that the powers given will be abused and that there will be no remedy whatsoever.

Sir, my friend Khan Bahadur Muazzamuddin Hosain feels very seriously that in a Bill like this the maximum rate of interest should have been fixed. I only appeal to him that we are not financiers and we have got to depend upon the finances of the public. Unless and until we are able to draw finances at a cheap rate of interest it is not possible for the society and its members to get loans at a cheaper rate. Again, regard being had to the position of the rural credit of the province to-day, I hope my honourable friend with his long experience, specially of the affairs of rural population of the province, will agree that a provision like this cannot be made. I can, however, assure him that a very serious attempt will be made to see that we draw our finances at as cheap rate of interest as possible and as soon as we are able to do so, we shall see that village society members get credit at a cheaper rate as well.

Sir, I may mention one thing. Yesterday reference was made by my friend Mr. Pal Choudhury about this question of audit and general administration. He referred to the Land Revenue Commission Report. I would only read to the House two or three sentences to show what they have said and what their ideas are about the co-operative movement in this province. At page 156, Volume I, of that report, dealing with Co-operative Societies Bill, it is observed: "The Bill does not separate supervision from audit. Although the Select Committee were in favour of separation in principle, they were unable for financial and other reasons to recommend it. The Royal Commission on Agriculture pointed out the desirability of separating these two branches of co-operative work and we think it desirable that this recommendation should be put into effect as early as possible."

Then, as regards the Registrar's power, they observed on page 158 as follows:—

"The powers of the Registrar were insufficient; there was no distinction between long term and short term credit; the supervising staff was inadequate and completely untrained, and in consequence the lion's share of the credit was sometimes appropriated by a few influential members."

Sir, I shall not go into further details, but I submit that, so far as the provisions in this Bill are concerned, we aim at creating a better and healthier atmosphere in the co-operative movement of the province, and I can assure the House that with the little experience that I have gained during the last three and a half years, I am perfectly convinced that a measure like the present Bill is necessary. To all my friends, and particularly to Mr. Humayun Kabir, who have said that by the provisions of this Bill, non-official workers would be frightened away from the movement, I must say that perhaps it would not have been possible for them to make such a remark, had they gone a bit more deeply into the present hopeless condition of the co-operative movement in the province. Sir, I hold in my hand only a few of the letters of appreciation that I have received from the directors of many Central Banks as well as members of village societies and even from eminent professors including an eminent Professor of the University of Allahabad, who have unanimously observed that a measure of this kind is necessary if the co-operative movement in Bengal is to be conducted on sounder lines. In view of such opinion of eminent thinkers and of the persons who are intimately in touch with the movement, I should think that there ought not to be any further misgivings.

I hope you will excuse me, Sir, and I beg of the members to excuse me if in my final reply I have failed to answer all the points that have been raised during this debate. I submit once again that the provisions that we have made have been made on the basis of experience gained so far, and we pray that we might be given a chance so that we might try and better the condition of the movement in this province. It is on an experimental basis that we have suggested to this House to give us power for the want of which we suffered so much in the past. It was from that point of view that this Bill was brought in; it has passed through different stages and is at its concluding stage to-day when my only submission is that it should be passed without any dissentient voice so that we might have a chance to remedy the defects in our movement.

Before I sit down, Sir, I would ask you to permit me to offer my humble thanks once again to the honourable members of this House who have given me very sound advice, and although I have not been

able to see eye to eye with some of them I have very great respect for the advice they have given me. I have taken a note of their arguments and of their advice in order to see whether they could be acted upon in future. I am extremely grateful to you, Sir, for the very kind guidance which you have given us in the course of this debate, and for the goodness which you have extended to me personally to enable me to place my points of view before the House. I am grateful also to the Council Department for the pains they have taken in putting the numerous amendments in a proper manner for the consideration of the House.

With these submissions, Sir, I commend my original motion that the Bill, as settled by the Council, be passed to the acceptance of the House.

Mr. PRESIDENT: The question before the House is: that the Bengal Co-operative Societies Bill, 1940, as settled in the Council, be passed

(The motion was agreed to.)

The Bengal Water-Hyacinth (Amendment) Bill, 1940.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I beg to move that the Bengal Water-Hyacinth (Amendment) Bill, 1940, be taken into consideration.

Mr. PRESIDENT: Motion moved: that the Bengal Water-Hyacinth (Amendment) Bill, 1940, be taken into consideration.

(At this stage Mr. Humayun Kabir rose to speak.)

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, may I suggest that the motion for consideration of the Bill may kindly be put now and if this motion is passed, amendments on the clauses may be taken up later.

Mr. PRESIDENT: The question before the House is: that the Bengal Water-Hyacinth (Amendment) Bill, 1940, be taken into consideration.

(The motion was agreed to.)

Mr. PRESIDENT: Mr. Humayun Kabir, do you want to say anything?

Mr. HUMAYUN KABIR: Sir, I wanted to say something with regard to the introduction of the Bill; but since that stage has been passed, I propose to speak when the clauses will be taken up.

Prorogation.

Mr. PRESIDENT: Order, order. I have it in command from His Excellency the Governor that the Bengal Legislative Council do now stand prorogued.

Members absent.

The following members were absent from the meeting held on the 19th September, 1940:—

(1) Mr. Kader Baksh.
(2) Mr. Narendra Chandra Datta.
(3) Mrs. K. D'Rozario.
(4) Mr. Kamini Kumar Dutta.
(5) Khan Bahadur Alhadj Khwaja Muhammad Esmail.
(6) Mr. Mahomed Hossain.
(7) Khan Bahadur Syed Muhammad Ghaziul Huq.
(8) Alhadj Khan Bahadur Shaikh Muhammad Jan.
(9) Khan Bahadur M. Abdul Karim.
(10) Khan Bahadur Muhammad Asaf Khan.
(11) Maulana Muhammad Akram Khan.
(12) Mr. W. B. G. Laidlaw.
(13) Sir T. Lamb.
(14) Mr. Naresh Nath Mookerjee.
(15) Dr. Radha Kumud Mookerji.
(16) Khan Bahadur Mukhlesur Rahman.

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